

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION
S.D. 400 (REV. 7-90)

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER 90-0914-03N	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only		1990 SEP 14 PM 3:30 OFFICE OF ADMINISTRATIVE LAW ENDORSED APPROVED FOR FILING OCT - 1 1990 Office of Administrative Law REGULATIONS		
AGENCY State Department of Social Services		AGENCY FILE NUMBER (if any) 0990-42		

FILED
In the office of the Secretary of State
of the State of California
OCT 01 1990
At 4:16 P.M.
MARCH 11 1990
by Nicholas S. Williams
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND 30-004.11, 30-100.2, 30-198.15, 30-276.16, 30-338.16, 41-440.44, 41-607.1 and .41 (Handbook), 41-608.1, & 43-203.115.
	REPEAL 10-330, 30-182, 30-310.2, 41-500, 45-400, 45-401, 45-402, and 45-403. 25-502.2

TITLE(S) MPP

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)
Not Applicable

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)
☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) (10-01-90)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal
☐ Other (Specify)

6. CONTACT PERSON
Rosalie Clark, Chief, Regulations Development Branch
TELEPHONE NUMBER (916) 445-0310

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Linda S. McMahon	DATE 9-14-90
TYPED NAME AND TITLE OF SIGNATORY Linda S. McMahon, Director	

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

ENVIRONMENTAL

INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Repeal Section 10-330.

10+330 FUNDING AND EXPENDITURES + EMERGENCY ASSISTANCE + 10+330
ABUSED/ NEGLECTED OR EXPLOITED CHILDREN (EX+ANEC)

11 COUNTY welfare departments shall use TITLE IV+A EX+ANEC funds when providing the following services to children and families meeting the EX+ANEC eligibility criteria specified in Chapter 43+400/

111 Counseling/ as defined in section 30+002(2)(1)/

112 Emergency shelter care/ as defined in section 30+002(2)(3)/

1121 Funding for this service shall be subject to the requirements specified in sections 30+138/2 through 132/

113 Out-of-home respite care/ as defined in section 30+002(2)(8)/

114 Parenting training/ as defined in section 30+002(2)(7)/

115 Temporary in-home caregiver/ as defined in section 30+002(2)(10)/ Funding for this services shall be subject to the requirements specified in section 30+132/

116 Transportation/ as defined in section 30+002(2)(11)/

117 Information and referral/ as defined in sections 30+031/1 through 133/

118 Case management and activities which ensure the accurate assessment of the child's and family's needs/ and the provision of necessary services/

12 When services for a child/family are funded under EX+ANEC/ service provision for that child/family shall be limited to one period of up to 30 days during any 12-month period//

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 25-502.2 to read:

25-502 REPORTING OF STATUS FOR CLAIMING PURPOSES

25-502

For claiming purposes, persons counts are reported to reflect status of the money payment.

.1 (Continued)

12 In the Emergency Assistance / Unemployed Parent Program if only one payment is issued for the 30 day eligibility period and if the 30 day eligibility period extends into the subsequent month, persons counts for the subsequent month shall be claimed by adjustment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 30-004.11 to read:

30-004 PERSONS SERVED

30-004

Each service program shall be made available to persons who meet requirements relating to both of the following:

.1 Eligibility.

- .11 All persons without regard to income are eligible for Information and Referral Services (30-050), Emergency Response (30-100) and Protective Services for Adults (30-800). However, when these services or other services set forth in 107330 are funded through Emergency Assistance +Abused/ Neglected or Exploited Children (E+A+NEC), the child and/or the child's family must meet the following criteria:

- /111 The child is being or is in immediate danger of being abused/ neglected/ or exploited/
 - /112 The child is living with a relative as defined in EAS 45+101/1111 or lived with such relative within six months of application for E+A+NEC/
 - /113 The child's need for Emergency Assistance did not arise because the child or the child's caretaker relative refused without good cause to accept employment or training for employment/
 - /114 The child or family is receiving AFDC or the child meets the requirements set forth for E+A+NEC in EAS 45+402/
 - /115 The child/family has not received Emergency Assistance within the last 12 months/
- (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 30-100.2 to read:

CHAPTER 30-100 SERVICE PROGRAM NO. 2: EMERGENCY RESPONSE.

30-100 GENERAL (Continued)

30-100

.2 The following special provisions shall also apply:

*121 When services may potentially be funded through the
Emergency Assistance + Abused, Neglected, or Exploited
Children (EANE) program, the additional
requirements specified in section 30-182 shall apply.*

.221 (Continued)

.222 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

Repeal Section 30-182.

30-182 ADDITIONAL REQUIREMENTS FOR THE EMERGENCY
ASSISTANCE-ABUSED/ NEGLECTED/ OR EXPLOITED
CHILDREN (EATANE) PROGRAM

30-182

11 A child shall be eligible for emergency response services without regard to income or status, as specified in section 30-110/2/

111 When emergency response services potentially may be funded through the Emergency Assistance + Abused/ Neglected/ or Exploited Children (EATANE) program, county welfare department staff shall complete an Emergency Assistance Application/Eligibility Determination form as specified in Chapter 45-400/

112 The social worker shall document the nature of the emergency in the case record/

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 30-198.15 to read:

30-198 CASE RECORDS (Continued)

30-198

.1 (Continued)

.15 Copies of the following: (Continued)

~~/153 Any EX-AMEC eligibility determination documents/~~

.1543 (Continued)

.1554 (Continued)

.1565 (Continued)

.1576 (Continued)

Note: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10553, Welfare and Institutions Code and 45 CFR 1356.21(d).

Amend Section 30-276.16 to read:

30-276 CASE RECORDS (Continued)

30-276

.1 (Continued)

.16 Copies of the following: (Continued)

~~/167 Any EX-AMFC eligibility determination documents/~~

.1643 (Continued)

.1674 (Continued)

.1685 (Continued)

.1676 (Continued)

Note: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10553, Welfare and Institutions Code and 45 CFR 1356.21(d).

30-310 ELIGIBILITY (Continued)

30-310

- 12 When such services are to be funded through the Emergency Assistance Abuse, Neglected, or Exploited Children (EATAMEC) program, the following eligibility criteria shall be met as specified in Eligibility and Assistance Standards Manual Chapter 4B+400:
- 121 The child is being, or is in immediate danger of being, abused, neglected, or exploited.
- 122 The child is living with a relative as defined in Eligibility and Assistance Standards Manual Section 4B+101/1100, or lived with such relative within six months of application for EATAMEC.
- 123 The child/s need for emergency assistance did not arise because the child or the child/s caretaker relative refused without good cause to accept employment or training for employment.
- 124 The child or family is receiving AFDC or the child meets the requirements set forth for EATAMEC in Eligibility and Assistance Standards Manual Section 4B+402.
- 125 The child/family has not received emergency assistance within the last 12 months.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 30-338.16 to read:

30-338 PLACEMENT ACTIVITIES

30-338

.1 (Continued)

.16 The county shall ensure completion of the documentation necessary to initiate AFDC-FC ~~and/or~~ ~~EX/FZ~~ payments, as appropriate. (Continued)

NOTE: Sections 10553 and 10554, Welfare and Institutions Code.
Reference: Section 16507.5, Welfare and Institutions Code,
California Code of Regulations, Title 22, Section 87087(d).

Amend Section 41-440.44 to read:

41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM
(Continued)

41-440

.4 (Continued)

.44 If the applicant meets all the requirements of Section 41-440 except .422 and/or .41, the family shall be aided under the ~~Emergency Assistance Program in accordance with the provisions and limitations of Chapter 41-500~~ and/or State-only AFDC-U Program in accordance with the provisions and limitations of Chapter 41-600. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 41-500.

41+500 EMERGENCY ASSISTANCE + UNEMPLOYED PARENT PROGRAM 41+500

/1 Purpose + To provide immediate response in the form of cash to families who are destitute due to the unemployment of the principal wage earner who is living in the home.

/2 General Policy

The Emergency Assistance + Unemployed Parent (EATUP) Program shall be administered according to the policies and regulations of the AFDC Program except as specified in /62 below.

/3 Application

/31 Applications for EATUP shall be in accordance with EAS Section 40+121.

/32 The county shall verify the applicant's eligibility or ineligibility for EATUP in accordance with EAS Section 40+126.

/4 Eligibility

/41 A family shall be eligible for EATUP Program assistance if all the requirements of EAS Section 41+440, except 41+440/22 and/or 41+440/4, are met, and the family is otherwise eligible for AFDC.

/42 EATUP benefits cannot be paid to a pregnant woman, one person assistance unit, or to cover the pregnancy special need payment under Sections 44+203 and 44+211/4.

/43 For purposes limited to the EATUP program, "family" is defined as:

(a) The needy child(ren) deprived because of the unemployment of his/her parents, and

(b) The parent(s) living in the home who does not meet the requirements for federal AFDC+U, and

(c) Other eligible persons added with the child(ren) during the same 30-day eligibility period. (See Section 44+203 for eligible person.)

/5 Beginning Date of Aid

151 The beginning date of aid for the EA+UP program shall be consistent with EAS section 44-3171

16 Payments

161 The initial EA+UP payment shall be delivered consistent with EAS section 44-319121

162 EA+UP payments shall be limited to one period of up to 30 days during any 12-month period.

17 Program Transfer

171 For an EA+UP recipient who has been determined to be eligible for EA+UP, a transfer of the case from EA+UP to AFDC shall be completed at the end of the EA+UP period of eligibility provided that the recipient is otherwise eligible.

18 The provisions of this chapter shall apply to all applications filed on or after July 1, 1982.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 41-607.1 and modify Handbook Section 41-607.41 to read:

41-607 TIME LIMITATION TO STATE-ONLY AFDC-U ELIGIBILITY 41-607

- .1 Eligibility for State-only AFDC-U Program benefits shall not exceed three months in any 12-consecutive-month period/ except for those families who receive FAFU benefits (see Section 41-300Y). If a family receives FAFU/ eligibility under this state-only AFDC-U shall be limited to two months.

// When a family is eligible for FAFU assistance/ state-only AFDC-U assistance shall be paid only after FAFU eligibility has expired/ (Continued)

41-607 TIME LIMITATION TO STATE-ONLY AFDC-U ELIGIBILITY 41-607

- .4 (Continued)

HANDBOOK BEGINS HERE

.41 EXAMPLE:

A family consisting of father, mother and two children receives FAFU and State-only AFDC-U for June, July, and August. 1) A third child returns to the home on July 15th. That child is only eligible to receive aid from July 15th through August 31. 2) A fourth child returns to the home after August 31, no eligibility exists for FAFU or State-only AFDC-U until the following June.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 41-608.1 and modify Handbook Example to read:

41-608 THE 12-CONSECUTIVE-MONTH PERIOD FOR
STATE-ONLY AFDC

41-608

- .1 The 12-consecutive-month period shall be established as follows:

111 The 12-consecutive-month cycle for a family begins on the beginning date of aid for EATUP and ends on the day before the corresponding date one calendar year later/

.121 The 12-consecutive-month cycle for families that do not receive EATUP/ the 12-consecutive-month cycle begins on the beginning date of aid for State-only AFDC-U and ends on the day before the corresponding date one calendar year later.

.132 (Continued)

.143 (Continued)

.1431 (Continued)

.1432 (Continued)

HANDBOOK BEGINS HERE

EXAMPLE:

A pregnant woman in a one-person assistance unit receives State-only AFDC-U for August, September, and October. The child is born in December and the family applies for State-only AFDC-U. The aid is granted January 1 and the family receives ~~EATUP and~~ State-only AFDC-U for January, February and March.

The 12-consecutive-month period for the pregnant woman begins on August 1 and ends on July 31 of the following year.

The 12-consecutive-month period for the family, including the mother of the child who receive State-only AFDC-U as a pregnant woman in August, September and October, begins on January 1 and ends on December 31st of that year.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

Amend Section 43-203.115 to read:

43-203 DISTRIBUTION OF CHILD AND SPOUSAL SUPPORT
PAYMENTS (Continued)

43-203

.1 (Continued)

.11 (Continued)

.115 This disregard payment shall apply only to AFDC
FG/U/ ~~EA/UP~~ and State-only AFDC-U cases. Foster
Care (IV-E) cases are not eligible for this
disregard payment. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

Repeal Section 45-400.

45-400 EMERGENCY ASSISTANCE-ABUSED/ NEGLECTED OR
EXPLOITED CHILDREN (EX-AMEC) PROGRAM

45-400

THE EX-AMEC PROGRAM SHALL CONSIST OF THE FOLLOWING THREE
ELEMENTS:

EMERGENCY ASSISTANCE + FAMILY SERVICES
EMERGENCY ASSISTANCE + EMERGENCY SHELTER CARE
EMERGENCY ASSISTANCE + FOSTER CARE

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

Repeal Section 45-401.

45-401 GENERAL PROVISIONS

45-401

- 11 Purpose -- to provide immediate response in emergency situations for a child who is being or is in immediate danger or being abused/ neglected or exploited in order to:
 - 1a) Maintain the child in a safe home environment/ or
 - 1b) Provide short-term/ out-of-home care for a child who cannot remain in his/her own home/
- 12 Program Definitions

Emergency Assistance -- Abused/ Neglected or Exploited children means payments and/or services provided for a child and/or the child's family when the child is being or is in immediate danger of being abused/ neglected or exploited/
- 13 Application Process

Application and eligibility determinations shall be completed as follows/

 - 131 An Emergency Assistance Application/Eligibility Determination form (SOC 349) shall be completed for all EA-ANEC cases and a copy retained in the income maintenance and services case records/
 - 132 EA-FC cases shall also include the CA 1 and all appropriate AFDC-FC documentation required by EAS 45-200/
- 14 The provisions of this chapter shall apply to all applications filed on or after July 1/ 1982/

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

45+402 ELIGIBILITY REQUIREMENTS

45+402

11 General

111 A child and/or a child's family are eligible for EA+AMEC if the specific requirements in 12/ 13 or 14/ below/ and the following general requirements are met/

- 1a) the child is being or is in immediate danger of being abused/ neglected/ or exploited and the nature of the emergency has been documented by a CWD worker in the service case record/
- 1b) the child is living with a relative as defined in EAS 45+101/1 or lived with such relative within six months of application for EA+AMEC/
- 1c) the need for emergency assistance did not arise because the child or the child's caretaker relative refused without good cause to accept employment or training for employment/
- 1d) a period for which EA benefits were received by the child/family has not commenced within the 12 months prior to this period of EA eligibility/ and
- 1e) the CWD has services case management responsibility/

12 Emergency Assistance ++ Family Service (EA+FS)

121 The child and the child's family shall be eligible for the services listed in 10+330/1 if all of the following criteria are met/

- 1a) the general requirements specified in 11/ above/ and
- 1b) at the time services are initiated/ the family is receiving AFDC+FS/U or the family is receiving AFDC+FC on behalf of the child in accordance with EAS 45+202/212/

13 Emergency Assistance ++ Emergency Shelter Care (EA+ESC)

131 A child shall be eligible for EA+ESC if all of the following requirements are met:

1a) the general requirements specified in 11/ above;

1b) the general requirements for emergency response or family reunification program services, as specified in sections 30+182 and 30+310;

1c) the child is in emergency shelter care as defined in section 30+002(2)(3); and

1d) at the time of removal, the child was receiving AFDC+FC/ or the child was receiving AFDC+FC in accordance with EAS 43+202/212/ or the child meets the general AFDC requirements for property and income as specified in EAS 42+200 and 44+100/

14 Emergency Assistance ++ Foster Care (EA+FC)

141 A child shall be eligible for EA+FC if all of the following criteria are met:

1a) the general requirements specified in 11/ above; and

1b) the requirements of EAS 43+200/

142 For a child who has been determined to be eligible for EA+FC, a program transfer of the case from EA+FC to AFDC+FC shall be completed at the end of the Emergency Assistance thirty-day eligibility period provided the child meets the requirements of EAS 43+200/. A new eligibility determination shall not be required/

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 45-403.

45-403 PAYMENTS

45-403

11 EX-AMEC payments shall consist of three types as follows:

(a) EX-FS payments for a child and/or the child's family;

For such payments, the beginning date of aid shall be the date the SOC 349 is completed;

(b) EX-ESC payments for a child in emergency shelter care;

The beginning date of aid for EX-ESC shall be the first day of the child's placement into emergency shelter care;

(c) EX-FC payments for a child removed from his/her home;

The beginning date of aid for EX-FC payments shall be determined in accordance with EAS 44-317 provided the child meets all the requirements in 45-200/

12 Emergency Assistance payments shall not be made, nor Emergency Assistance services provided by CWP staff, for more than one period of up to 30 consecutive days during any 12-month period for a child and/or the child's family. More than one type of EX-AMEC payment may be made during the 30-day period. EX-AMEC payments may be concurrent with EX-UP payments if eligibility for both exists.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

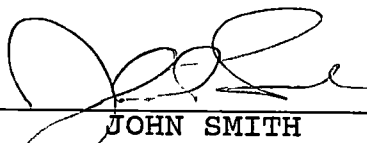
OCT 01 1990

At 11:00 P.M.
MARCH 1990, of State
By Michael L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0914-03



JOHN SMITH
CHIEF COUNSEL

10/01/90

EMERGENCY

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	290-0918-03		00920-025	
For use by Office of Administrative Law (OAL) only				
1990 SEP 20 PM 3 22 OFFICE OF ADMINISTRATIVE LAW ENDORSED APPROVED FOR FILING OCT - 1 1990 Office of Administrative Law				
NOTICE			REGULATIONS	
AGENCY			AGENCY FILE NUMBER (if any)	
SOCIAL SERVICES			RDB # 0790-31	

FILED
In the office of the Secretary of State of the State of California

OCT 01 1990
At 4:40 PM
MARCH 10 1990
Nicheale Williams
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

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OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	Sections 42-750.8 and .9; 42-750.1 through .6; 42-760.8; and 42-788.1 and .2
	AMEND	(See attached)
TITLE(S)	REPEAL	Sections 42-788
MPP		

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)	October 1, 1990; FOR OPERATIVE DATE SEE AB312, SECTION 15, STATUTES OF 1990
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

DATE

9-18-90

Attachment 1

Amend Sections:

42-720.1 through 6
42-730.1 through .5
42-740.1 and .2
42-750.1 through .6
42-751.1 through .6
42-761.3 and .4
42-771.5
42-772.4 through .7
42-774.1 and .2
42-781.1 through .9
42-782.1 and .3
42-783.1
42-784.4 and .5
42-786.1, .2,.3,.4, and .7
42-790.1
42-792.1
42-793.1
42-794.1
42-799.1, .2, and .3

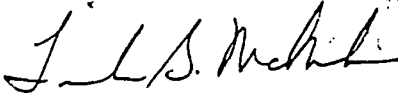
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

PUBLIC NOTICE

November 13, 15 and 16, 1990 Public Hearing

ITEM #1
JOBS Phase II

CHAPTERS

Manual of Policies and Procedures (MPP), Division 42, Sections 42-720 - The GAIN County Plan; 42-730 - GAIN Job, Training, and Education Services; 42-740 - Contracts/Agreements for GAIN, Job, Training and Education Services; 42-750 - Supportive Services; 42-751 - Underpayments and Overpayments of Supportive Services; 42-760 - GAIN Registration; 42-761 - GAIN Registrant Appraisal; 42-772 - GAIN Basic Participant Contract Requirements; 42-774 - Participant Contract Amendments; 42-781 - Cause Determination and Conciliation; 42-782 - GAIN Good Cause Criteria; 42-783 - Criteria For Determining Appropriateness of GAIN Work and Training; 42-784 - Method of Determining Net Loss of Income For GAIN Good Cause Criteria; 42-786 - GAIN Financial Sanctions; 42-788 - Exemptions; 42-790 - Exemption Based on School Attendance (Code 02); 42-792 - Exemption Based on Age 60 or Older (Code 04); 42-793 - Exemption Based on Capacity (Code 05); 42-794 - Exemption Based on Remoteness (Code 06); and 42-799 - Exemption Based on VISTA Program Participation (Code 11).

INFORMATIVE DIGEST

The Family Support Act of 1988 (Public Law 100-485) established the Job Opportunities and Basic Skills Training (JOBS) Program which provides education, training and employment services to Aid to Families with Dependent Children (AFDC) applicants and recipients. California implemented JOBS by modifying its Greater Avenues for Independence (GAIN) Program via Assembly Bill 2171, Chapter 77, Statutes of 1989 and adopted implementing emergency regulations effective July 1, 1989.

The final federal JOBS rules (45 CFR 250.20(d)) issued October 13, 1989 require states to submit state plans for approval to the Department of Health and Human Services that comply with the final federal rules not later than October 1, 1990, as a condition of continuing eligibility for federal AFDC funding.

These proposed emergency regulations would: implement GAIN Program changes necessitated by the final federal JOBS rules; implement certain program options offered under JOBS; and make program improvements not associated with JOBS but are necessary for the immediate preservation of the public peace, health and safety, or general welfare pursuant to AB 312, Chapter _____, Statutes of 1990.

COST ESTIMATE

1. Costs and Savings to State Agencies: \$6,975,000 - Fiscal Year 1990-91 to be absorbed within existing budgets and resources.
2. Costs and Savings to Local Agencies or School Districts: No costs or savings to local agencies or school districts because this program has no county share of costs.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: Approximately \$2,375,000 additional expenditures for Fiscal Year 1990-91.

LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on local agencies, and on local school districts. There are no state mandated local costs that require reimbursement, because funding is provided in the Budget Act to cover any costs that local agencies may incur.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES AND OF ALTERNATIVES CONSIDERED

SDSS has determined that these regulations will have no fiscal impact on private persons or businesses.

SDSS must determine that no alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons than the proposed action.

SMALL BUSINESS IMPACT STATEMENT

SDSS has determined that these regulations will have no adverse fiscal impact on small businesses.

AUTHORITY AND REFERENCE CITATIONS

These regulations are proposed for adoption under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. The cited references are: Sections 10553 and 10554, Welfare and Institutions Code; Section 11310 and Articles 3.2 and 3.3 of Chapter 2, Part 3, Division 9 of the Welfare and Institutions Code, commencing with Section 11320, AB 312, Chapter _____, Statutes of 1990; 45 CFR Sections 205.10, 250.1, 250.12, 250.30(a), (b)(1)(ii), (3), (4) and (10), and (c), 250.31, 250.32(a)(1) and (3)(ii), 250.34(a) and (c)(2) and (3), 250.35(c) and (d), 250.41(a)(1)(i) and (b), 250.48, 250.60(c) and (d), 250.61(b), (c), (e) and (f), 250.62(b)(2), 250.72(c) and (d), 250.90, 250.94(a)(2), 250.95(b), 250.97(f)(7), 255.1(e)(1) and (4), 255.2(a), (c), (d) and (h), 255.4(a)(2)(iii), (c)(2), (f)(2), (i)(1) and (j); 54 FR 42173, 42184 and 42234, October 13, 1989; and Federal Action Transmittal FSA-JOBS-90-3.

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety or general welfare within the meaning of Government Code Section 11346.1

The following facts constitute the emergency:

1. On October 13, 1988, the President signed Public Law (PL) 100-485, known as the Family Support Act of 1988. This act provides, among other things, substantial federal funding for state employment and training programs for Aid to Families with Dependent Children applicants and recipients. Federal regulations implementing PL 100-485 were adopted by the Department of Health and Human Services (HHS) effective October 13, 1989. In order to retain federal funding for California's AFDC and GAIN program, the GAIN program must conform to federal regulations by October 1, 1990. Assembly Bill (AB) 312, signed by the Governor in September 1990, contains most of the modifications required by the final federal regulations.

2. AB 312 Chapter _____, Statutes of 1990 contains a provision which specifies:

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect.

3. Retaining federal funding by conforming with federal regulations will make it possible to assist more AFDC applicants and recipients, and to reduce welfare dependency. AB 312 also provides intensive case management services for teenage parents who are AFDC recipients, alters the conciliation process, and makes numerous smaller changes to the GAIN program.
4. AB 312 specifies that emergency regulations be adopted within 120 days after enactment of the bill into law without review of the Office of Administrative Law. The Department of Social Services must subsequently comply with the Administrative Procedure Act.

5. Therefore, in order to comply with PL 100-485, federal regulations, and AB 312, to provide GAIN services to as many individuals as possible, and to ensure that AFDC recipients receive all the benefits to which they are legally entitled, these regulations are adopted as an emergency measure, to become effective immediately.

INFORMATIVE DIGEST

The Family Support Act of 1988 (Public Law 100-485) established the Job Opportunities and Basic Skills Training (JOBS) Program which provides education, training and employment services to Aid to Families with Dependent Children (AFDC) applicants and recipients. California implemented JOBS by modifying its Greater Avenues for Independence (GAIN) Program via Assembly Bill 2171, Chapter 77, Statutes of 1989 and adopted implementing emergency regulations effective July 1, 1989.

The final federal JOBS rules (45 CFR 250.20(d)) issued October 13, 1989 require states to submit state plans for approval to the Department of Health and Human Services that comply with the final federal rules not later than October 1, 1990, as a condition of continuing eligibility for federal AFDC funding.

These proposed emergency regulations would: implement GAIN Program changes necessitated by the final federal JOBS rules; implement certain program options offered under JOBS; and make program improvements not associated with JOBS but are necessary for the immediate preservation of the public peace, health and safety, or general welfare pursuant to AB 312, Chapter _____, Statutes of 1990.

COST ESTIMATE

1. Costs and Savings to State Agencies: \$6,975,000 - Fiscal Year 1990-91 to be absorbed within existing budgets and resources.
2. Costs and Savings to Local Agencies or School Districts: No costs or savings to local agencies or school districts because this program has no county share of costs.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: Approximately \$2,375,000 additional expenditures for Fiscal Year 1990-91.

LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on local agencies, and on local school districts. There are no state mandated local costs that require reimbursement, because funding is provided in the Budget Act to cover any costs that local agencies may incur.

AUTHORITY AND REFERENCE CITATIONS

These regulations are proposed for adoption under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. The cited references are: Sections 10553 and 10554, Welfare and Institutions Code; Section 11310 and Articles 3.2 and 3.3 of Chapter 2, Part 3, Division 9 of the Welfare and Institutions Code, commencing with Section 11320, AB 312, Chapter _____, Statutes of 1990; 45 CFR Sections 205.10, 250.1, 250.12, 250.30(a), (b)(1)(ii), (3), (4) and (10), and (c), 250.31, 250.32(a)(1) and (3)(ii), 250.34(a) and (c)(2) and (3), 250.35(c) and (d), 250.41(a)(1)(i) and (b), 250.48, 250.60(c) and (d), 250.61(b), (c), (e) and (f), 250.62(b)(2), 250.72(c) and (d), 250.90, 250.94(a)(2), 250.95(b), 250.97(f)(7), 255.1(e)(1) and (4), 255.2(a), (c), (d) and (h), 255.4(a)(2)(iii), (c)(2), (f)(2), (i)(1) and (j); 54 FR 42173, 42184 and 42234, October 13, 1989; and Federal Action Transmittal FSA-JOBS-90-3.

INITIAL STATEMENT OF REASONS

- a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

The Family Support Act of 1988 (Public Law 100-485) established the Job Opportunities and Basic Skills Training (JOBS) Program which provides education, training and employment services to Aid to Families with Dependent Children (AFDC) applicants and recipients. California implemented JOBS by modifying its Greater Avenues for Independence (GAIN) Program via Assembly Bill 2171, Chapter 77, Statutes of 1989 and adopted implementing emergency regulations effective July 1, 1989.

The final federal JOBS rules (45 CFR 250.20(d)) issued October 13, 1989 require states to submit state plans for approval to the Department of Health and Human Services that comply with the final federal rules not later than October 1, 1990, as a condition of continuing eligibility for federal AFDC funding.

The proposed emergency regulations would: implement GAIN Program changes necessitated by the final federal JOBS rules; implement certain program options offered under JOBS; and make program improvements not associated with JOBS but are necessary for the immediate preservation of the public peace, health and safety, or general welfare pursuant to AB 312, Chapter ____, Statutes of 1990.

- b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 42-720.13, .131 and .135 and Handbook

Specific Purpose:

These sections are being amended and repealed to delete references to the Refugee Demonstration Project (RDP) which is no longer in existence.

Factual Basis:

These changes are necessary because the RDP no longer exists.

Section 42-720.324(a)

Specific Purpose:

This section is being revised to require that counties take into account new priority order of groups for participation as specified in revised Sections 42-720.632 and .633.

Factual Basis:

This change is necessary to implement the provisions of Welfare and Institutions Code Sections 11320.6(c) and 11322.4, AB 312, Chapter _____, Statutes of 1990 which specifies priorities for participation.

Section 42-720.325(c) and (d)

Specific Purpose:

This section is being adopted to require that the county GAIN Plan contain specified information regarding the provision of services to custodial parents under the age of 18, including the reasons why the county has chosen to contract for the provision of case management services. The Section also provides a date by which the county plan updates are due to SDSS.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 11330.5(d), 11330.8(c), 11330.9(a) and (b), AB 312, Chapter _____, Statutes of 1990. The establishment of a deadline for submission of county plan updates is necessary in order to provide adequate time for counties to identify and establish linkages with service providers and to enter into contracts for case management.

Section 42-720.411, and .412

Specific Purpose:

Section 42-720.411(a) requires the CWD to provide evidence of public notice allowing for comments from affected groups and individuals in the county plan. Also, any significant revision of a county GAIN plan must be approved by the county board of supervisors.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11321, AB 312, Chapter _____, Statutes of 1990.

Section 42-720.412(d) and (d)(1)

Specific Purpose:

Section 42-720.412(d) mandates information sharing between counties and specified community organizations regarding the county GAIN plan. Subitem (d)(1) requires that the county GAIN plan must be accompanied by a certification of local cooperation, including joint planning and the use of local labor market information.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11320.8(c), AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.12(c).

Sections 42-720.51

Specific Purpose:

This amendments adds a requirement that "any significant revision" of a GAIN plan requires SDSS approval prior to implementation.

Factual Basis:

This change is necessary to comply with Welfare and Institutions Code Section 11321.2(a), AB 312, Chapter _____, Statutes of 1990.

Section 42-720.57

Specific Purpose:

This section is being amended to replace the term "among other things" with "but not limited to". Also "is" was changed to "shall be".

Factual Basis:

This change is necessary for consistency with other regulations in the use of the term "but not limited to" and to use the mandatory "shall" instead of "is".

Section 42-720.573

Specific Purpose:

Existing Section 42-720.573 is being deleted because it refers to GAIN phase-in requirements which are obsolete because this phase-in period has ended. New wording is being

adopted to specify that the county GAIN plan must identify education and supportive services and describe case management services available to custodial parents under 18 as a condition of approval by the State Department of Social Services.

Factual Basis:

This change is necessary to comply with Welfare and Institutions Code Sections 11330.5(d) and 11330.9(c), AB 312, Chapter _____, Statutes of 1990. Existing language was deleted as there was no longer authority.

Section 42-720.6, .623 and .63 through .635

Specific Purpose:

Section 42-720.6 was revised to change the title. Existing Section 42-720.623 was revised to specify priority for the target population. Existing Sections 42-720.63, and .64 are being replaced with a new Section 42-720.63. The new provisions of Section 42-720.63 provide that certain groups of AFDC recipients receive priority for GAIN services and that cost reductions must be achieved primarily by reducing the number of participants in the program in the priority specified.

Factual Basis:

This change is required by 45 CFR 250.1, 45 CFR 250.31(a) and Welfare and Institutions Code Sections 11322.2(b) and 11322.4, AB 312, Chapter _____, Statutes of 1990.

Sections 42-720.64 and .65

Specific Purpose:

Renumber existing Sections 42-720.65 to 42-720.64 and existing Section 42-720.653 to 42-720.65 and revise reference to other sections accordingly.

Factual Basis:

Renumbering caused by regulatory reorganization. No substantive regulatory effect.

Sections 42-720.64 and .642 (renumbered from .65 and .652)

Specific Purpose:

These handbook sections have been revised to change the term "reduction plan" to "plan revision to achieve program reductions."

Factual Basis:

This change is necessary to conform with provisions of Welfare and Institutions Code Section 11322.2(b), AB 312, Chapter ___, Statutes of 1990.

Section 42-720.642(a) and (b)

Specific Purpose:

These sections are being deleted because the provision which requires that excluded persons be excluded throughout the fiscal year is obsolete.

Factual Basis:

This change is necessary to conform with the provisions of Welfare and Institutions Code Section 11322.4, AB 312, Chapter ___, Statutes of 1990.

Section 42-720.65 (renumbered from .653)

Specific Purpose:

This handbook section is being revised to replace the obsolete term "revised reduction plan" with "new plan revision".

Factual Basis:

This change is required by provisions of Welfare and Institutions Code Section 11322.4, AB 312, Chapter ___, Statutes of 1990.

Sections 42-720.66, .661 and .661(b)

Specific Purpose:

These sections are being revised to replace the obsolete term "reduction plan", to make the section consistent with new requirements regarding priority for services, to combine subitem (a) with .661 and to delete subitem (b).

Factual Basis:

These changes are required by provisions of Welfare and Institutions Code Sections 11322.2(b) and 11322.4, AB 312, Chapter ___, Statutes of 1990. It was necessary to delete subitem- (b) because it is obsolete.

Section 42-720.67 et seq.

Specific Purpose:

These sections are being repealed.

Factual Basis:

The repeal of these sections is necessary because they do not conform to the provisions of Welfare and Institutions Code Section 11322.4, AB 312, Chapter ___, Statutes of 1990.

Section 42-730.11

Specific Purpose:

This section is being amended to require counties to work with other community agencies to identify or to create training and education opportunities for teenage parents who have already obtained a high school diploma or equivalent.

Factual Basis:

This section is necessary in order to comply with the provisions of Welfare and Institutions Code Section 11330.7, AB 312, Chapter ___, Statutes of 1990.

Section 42-730.27 through 42-730.274

Specific Purpose:

The specific purpose of sections 42-730.27 through 42-730.274 is to: 1) implement a federal option to utilize an initial eight-week period during which applicants may be required to participate in job search; 2) change the job search limit from eight weeks to 40 days; 3) define the time frames of the initial and subsequent 12-month period for purposes of tracking the time limit; 4) specify that job search activity in excess of the prescribed limit shall not be required except as part of an assigned education, training, or employment activity; 5) provide the county with clarification of the 40-day time frame and the tracking of the time frame and 6) provide the county with handbook examples of how to track the 12-consecutive-month period.

Factual Basis:

These proposed regulations are necessary to restructure the existing Section 42-730.27 for clarity and to comply with 45 CFR 250.60(c) and (d) and Welfare and Institutions Code Section 11322.6(f), AB 312, Chapter ___, Statutes of 1990. Proposed regulation Section 42-730.27 is necessary to clarify that the job search limits do not in any way change the existing GAIN client flow process.

Section 42-730.326(c)

Specific Purpose:

The purpose of this regulation is to specify that job search services required during a PREP assignment are not subject to the 40-day time limitations specified in proposed Section 42-730.272.

Factual Basis:

This regulation is necessary to implement 45 CFR 250.60(d) and Welfare and Institutions Code Section 11322.6(f)(2), AB 312, Chapter ____, Statutes of 1990, which provide that job search beyond the limit specified in 45 CFR 250.60 may be required if it is conducted as part of another educational, training or employment activity. PREP is defined in Section 42-730.32 as a training activity.

Section 42-730.418

Specific Purpose:

This section is being adopted to specify that an assignment funded by grant diversion shall not be created as the result of, nor shall result in, the filling of an established unfilled position with a GAIN participant.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11322.8(h)(6), AB 312, Chapter ____, Statutes of 1990, and 45 CFR 250.62(b)(2), which prohibit the filling of an established unfilled vacancy with a participant in a grant diversion/Work Supplementation Program.

Section 42-730.54

Specific Purpose:

This section is being revised to remove "a self-initiated educational program" from the two-year limit on post-assessment educational services.

Factual Basis:

This revision is necessary to conform with Welfare and Institutions Code Section 11323(a), AB 312, Chapter ____, Statutes of 1990.

Sections 42-730.55 and .551

Specific Purpose:

This section is being adopted to require CWDs to: (1) provide a minimum of ten hours per week of instruction to participants receiving Adult Basic Education (ABE) or Vocational English-as-a-Second Language (VESL) services, and (2) notify SDSS when they are unable to provide the minimum hours of instruction.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11323(b), AB 312, Chapter _____, Statutes of 1990, which require that a minimum of ten hours per week of educational instruction be provided to ABE and VESL participants.

Sections 42-740.14 through .142

Specific Purpose:

These sections are being amended to: (1) require that all GAIN job, training, or education services contracts specify standards by which to determine if a participant is making satisfactory progress; (2) require that participants be informed, by either the CWD or the contractor, of their activity's progress criteria when they begin an activity; (3) provide definitions of progress measures, and; (4) permit contractors to meet the progress standard requirement by adhering to any applicable statewide standard. Existing Section 42-740.141 is being renumbered to Section 42-740.142.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11328.6(a), AB 312, Chapter _____, Statutes of 1990, and 45 CFR 250.1 which require satisfactory progress standards be established by which to measure participant progress. The renumbering is a change without regulatory effect and is only for restructuring purposes.

Section 42-740.16, .17, and .18

Specific Purpose:

The purpose of these regulations is to specify that: 1) contracts between the CWD and provider of on-the-job training (OJT) shall specify that payments to an employer for OJT

shall not exceed an average of 50 percent of the wages paid by the employer to the participant during the training period; 2) contracts between the CWD and provider of OJT shall specify that participants in OJT assignments shall be compensated by the employer at comparable rates and benefits as regular employees/trainees but in no event less than the higher of federal or state minimum wage; and 3) contracts involving reimbursement for GAIN services shall contain a written certification by the provider that the services being provided would not otherwise be available to GAIN registrants at no cost.

Factual Basis:

Proposed regulation Sections 42-740.16 and .17 are necessary to implement 45 CFR 250.61(b) and (c), respectively, and Welfare and Institutions Code Section 11322.8(a)(1) and (2), AB 312, Chapter _____, Statutes of 1990. These proposed regulations specifically exclude assignments funded by grant diversion because they are not subject to the provisions of 45 CFR 250.61(b) and (c). Proposed Section 42-740.18 is necessary to implement 45 CFR 250.72(d) and to ensure that funds are not spent on services that are available to participants at no cost to the program.

Section 42-740.23

Specific Purpose:

This section is being adopted to define the conditions by which counties shall be permitted to contract for GAIN educational services, without having to adhere to GAIN fixed-unit-price performance-based contracting requirements. This contracting exemption shall be allowed in cases where counties cannot obtain educational services due to the absence of an available adult educational program or the small number of referrals, with requests for exemption being subject to the prior review and approval of SDSS.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11328.8(c), AB 312, Chapter _____, Statutes of 1990, which specify the criteria for allowing this contract exemption.

Sections 42-750.1 and .11

Specific Purpose:

Sections 42-750.1 and .11 have been amended to require counties to provide child care to children of Indian Tribal JOBS Program participants. These sections are also being

amended to limit supportive services available to individuals in approved self-initiated programs to child care, transportation and personal counseling.

Factual Basis:

These amendments are necessary to comply with 45 CFR 250.95(b) and Welfare and Institutions Code Section 11320.6(e)(5), AB 312, Chapter _____, Statutes of 1990. These amendments are also necessary to comply with 45 CFR 250.48(a)(3) which prohibits federal reimbursement of ancillary expenses for self-initiated programs. They are also necessary to comply with Welfare and Institutions Code Sections 11325.2(c)(5)(C)(i), AB 312, Chapter _____, Statutes of 1990 which limits reimbursement of supportive services to child care and transportation for persons in self-initiated programs.

Section 42-750.2 through .22

Specific Purpose:

The purpose of these amendments is to: 1) revise existing Section 42-750.2 to improve clarity; 2) raise the age limit for child care; 3) expand eligibility for child care services and 4) specify that the child must also meet the age requirements under the AFDC program.

Factual Basis:

These regulations are necessary to implement 45 CFR 255.2(a) and Welfare and Institutions Code Section 11322.2(a), AB 312, Chapter _____, Statutes of 1990 which require that the state provide paid child care for any children in the participant's assistance unit who meet one of the criteria specified in 45 CFR 255.2(a).

Section 42-750.25 and .251

Specific Purpose:

These regulations are being repealed (including handbook) to delete the requirement that counties collect fees from GAIN participants who receive child care subsidies.

Factual Basis:

These sections are being repealed because the Family Support Act of 1988 and the final federal JOBS regulations which implement the Act provide no authority for the establishment or collection of sliding fee child care subsidy payments from program participants.

Section 42-750.3 through .313(f) (renumbered from 42.750.2 through .212(f))

Specific Purpose:

The purpose of these amendments is to renumber the existing sections.

Factual Basis:

This renumbering is a change without regulatory effect and is being made only for restructuring purposes.

Section 42-750.313(g)

Specific Purpose:

This regulation is being adopted to require that child care providers for children of Indian Tribal JOBS program participants must meet applicable standards of tribal law.

Factual Basis:

This regulation is necessary to comply with 45 CFR 255.1(e)(1), 45 CFR 255.4(c)(2) and 45 CFR 255.5(a) and Welfare and Institutions Code Section 11323.6(f), AB 312, Chapter _____, Statutes of 1990.

Section 42-750.32 through .322 (renumbered from .22 through .222)

Specific Purpose:

The purpose of these amendments is to renumber the existing sections and cross-reference section numbers.

Factual Basis:

This renumbering is a change without regulatory effect and is being made only for restructuring purposes.

Section 42-750.323 (renumbered from .223)

Specific Purpose:

This section is being amended to be consistent with other requirements specified in Section 42-750.313 that child care information be contained in the case file.

Factual Basis:

This change is necessary for consistency with existing regulations and because it is unnecessary to incorporate this information into the participant's contract.

Section 42-750.324 (renumbered from .224)

Specific Purpose:

This revision is to delete an unnecessary reference and to clarify that the participant contract shall require notification of changes in child care arrangements.

Factual Basis:

This change rewords an existing regulation for additional clarity.

Section 42-750.33 through .333 (renumbered from .23 through .233)

Specific Purpose:

The purpose of these amendments is to renumber the existing sections and cross-reference section numbers.

Factual Basis:

This renumbering is a change without regulatory effect and is being made only for restructuring purposes.

Section 42-750.333(a) and (b) (renumbered from .233(a) and (b))

Specific Purpose:

This section is being amended to restructure non-regulatory information to handbook and to delete the requirement that the regional market rate survey be determined and updated annually.

Factual Basis:

The restructuring of existing Sections 42-750.233(a) and (b) is necessary for clarification because the SDSS is now responsible for the regional market rate contract. The existing regulation is not needed to regulate the county.

Section 42-750.333(c)

Specific Purpose:

The purpose of this regulation is to provide counties with authority to pay a higher rate of payment for child care in certain situations.

Factual Basis:

This regulation is necessary to implement the federal option under 45 CFR 255.4(a)(2)(iii) and Welfare and Institutions Code Section 11323.6(d)(2), AB 312, Chapter _____, Statutes of 1990, which provide that payments for child care in areas where there are only one or two providers of the type of care in a local market area may be set at the actual cost of care.

Section 42-750.334 through .335 (renumbered from .234 through .235)

Specific Purpose:

The purpose of these amendments is to renumber the existing sections and to correct a reference cite in Section 42-750.335.

Factual Basis:

This renumbering is a change without regulatory effect and is being made only for restructuring purposes.

Sections 42-750.34, .341 and .342

Specific Purpose:

The purpose of this regulation is to: 1) establish county time frames for reimbursing participants and providers for child care costs; and 2) establish that the participant must meet any obligations for submitting necessary documentation before the county will issue a payment for child care services.

Factual Basis:

These regulations are necessary for consistency with 45 CFR 255.2(h) which provides that participants are entitled to a hearing on issues concerning prompt issuance of benefits; and 45 CFR 255.1(e)(4) which requires assurance that CWD child care provided or claimed for reimbursement is reasonably related to the hours of participation or employment. These regulations are also necessary to ensure federal financial

participation pursuant to 45 CFR 255.4(i)(1) which provides that FFP is not available for improperly claimed claims for child care services.

The time frames established in this section are consistent with the county time frames for issuing transitional child care payments established in Section 47-165.61.

Section 42-750.35

Specific Purpose:

The purpose of this regulations is to prohibit reimbursements for child care which is provided by the child's parents, the child's legal guardians, or members of the assistance unit, including, but not limited to, essential persons.

Factual Basis:

This regulation is necessary to implement Welfare and Institutions Code Section 11323.6(e)(2), AB 312, Chapter _____, Statutes of 1990 and for consistency with 45 CFR 255.4(f)(2) which provides that federal financial participation is not available for payments made for care provided by parents, legal guardians, or members of the assistance unit, including essential persons.

Section 42-750.36, .361, .362, and .363

Specific Purpose:

The purpose of these regulations is to specify the conditions and limitations concerning payments for child care services where the county was not given prior notice of a change in providers.

Factual Basis:

This regulation is necessary in order to ensure federal financial participation in child care costs pursuant to 45 CFR 255.1(e)(4), 45 CFR 255.4(c)(2), 45 CFR 255.4(f)(2) and 45 CFR 255.4(i)(1).

Section 42-750.37

Specific Purpose:

The purpose of this regulation is to specify that paid child care shall be available during certain gaps in program participation to ensure that child care arrangements made by the participant are not lost during the waiting period.

Factual Basis:

This regulation is necessary for consistency with Welfare and Institutions Code Section 11323.2, AB 312, Chapter _____, Statutes of 1990 and to implement the federal option under 45 CFR 255.2(d) to provide paid child care during gaps in participation.

Section 42-750.38, .381 and Handbook

Specific Purpose:

The purpose of this regulation is to: 1) permit participants who become ineligible for aid due to specified circumstances during their on-the-job training (OJT) assignment to continue to receive supportive services for the duration of their OJT assignment; and 2) to implement the federal option at 45 CFR 250.61(f) to provide that each month of child care payment received during the OJT assignment after a participant becomes ineligible for aid shall reduce the number of months of transitional child care that is available pursuant to Section 47-120 after the OJT assignment ends; and 3) to provide a handbook example illustrating this provision for additional clarity..

Factual Basis:

This amendment is necessary to conform with 45 CFR 250.61(e) and (f) and Welfare and Institutions Code Section 11323.4(c), AB 312, Chapter _____, Statutes of 1990.

Section 42-750.4 through .415 (renumbered from .3 through .315)

Specific Purpose:

These sections are being renumbered and amended to specify that the determination of regional market rates for transportation cost includes CWD-provided transportation, and to correct cross-reference cites.

Factual Basis:

These proposed amendments are necessary in order to maintain consistency with the established methodology for determining regional market rates. This methodology limits reimbursement rates to the least costly form of public transportation. This would include county-provided transportation such as van pools, at no cost to participants.

Section 42-750.5 through .53 (renumbered from .4 through 42-750.51)

Specific Purpose:

Existing Sections 42-750.4 and .5 have been renumbered and combined into one and the reference cite has been changed accordingly.

Factual Basis:

The renumbering and reference cite correction are changes without regulatory effect and are being made only for restructuring purposes.

Section 42-750.54

Specific Purpose:

The purpose of this section is to prohibit the reimbursement of ancillary expenses to participants in self-initiated programs.

Factual Basis:

This section is necessary to comply with 45 CFR 250.48(a)(3) which prohibits federal reimbursement of ancillary expenses for self-initiated programs. It is also necessary to comply with Welfare and Institutions Code Section 11325.2(c)(5)(C)(i), AB 312, Chapter ____, Statutes of 1990 which limits reimbursement of supportive services to child care and transportation for persons in self-initiated programs.

Section 42-750.6

Specific Purpose:

The purpose of this amendment is to repeal a Handbook section that is no longer relevant. The new Section 42-750.62 states the new requirements which are now mandated by federal law.

Factual Basis:

This deletion is necessary because implementation of 45 CFR 255.4(j)(1) mandates collection of overpaid supportive services.

Section 42-750.61

Specific Purpose:

The purpose of this amendment is to repeal a duplicative regulation and to provide a definition of an unused portion of an advanced payment.

Factual Basis:

The repeal of existing language in Section 42-750.61 is necessary because this regulation is duplicative of existing regulations. The proposed new regulation is necessary to ensure statewide consistency in the treatment of advanced payments for supportive services.

Section 42-750.62, .621 and .622

Specific Purpose:

The purpose of this new section is to provide authority to counties to: 1) collect unused portions of advanced supportive services payments in subsequent months of participation; 2) require that adjustments be made only from the same type of supportive service the unspent portion was intended to cover; and 3) require counties to notify participants when an adjustment is made.

Factual Basis:

These regulations are necessary to ensure statewide consistency in the treatment of advanced payments for supportive services and to ensure implementation of 45 CFR 255.4(j) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ____, Statutes of 1990.

Section 42-750.623 through .625

Specific Purpose:

The purpose of these sections is to require counties to collect unused portions of advance payments that are not adjusted during the following month after proof of costs incurred is received according to appropriate procedures as described for overpayment recoupment of supportive services and require the reevaluation of the advance payment method for individuals in these situations by discussing alternate methods of payment with the individual.

Factual Basis:

These regulations are necessary to ensure statewide consistency in the treatment of advance payments for supportive services and to ensure implementation of 45 CFR 255.4(j)(1) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter _____, Statutes of 1990.

Section 42-750.8

Specific Purpose:

The purpose of this section is to establish a section which centrally locates regulatory policy regarding notices of action requirements for the supportive services in the GAIN Program.

Factual Basis:

This section is necessary to implement 45 CFR 255.2 (h) (1).

Section 42-750.81 and .811 et seq

Specific Purpose:

The purpose of these sections is to require counties to notify participants through appropriate Notices of Action (NOA) of any arrangement that will affect their supportive services payments. NOAs will be issued by specific notice procedures described in MPP Division 22. Additionally, these sections specify supportive service actions and changes which require NOAs.

Factual Basis:

These regulations are necessary to implement 45 CFR 255.2 (h) (1).

Section 42-750.812

Specific Purpose:

This section is being adopted to specify the types of actions related to supportive services which do not require the counties to issue a NOA.

Factual Basis:

45 CFR 255.2(h) provides that participants are entitled to a hearing on issues concerning prompt issuance of benefits (underline ours). If counties are required to provide a prior notice to approve supportive services payments for

unanticipated, short-term activities or services, the counties will be unable to provide timely payments. Additionally, the requirement to issue a NOA to confirm that the payment issued is equal to the amount claimed is duplicative and unnecessary. These notification exceptions are necessary to insure timely issuance of temporary approved supportive service payments and to reduce duplication and possible confusion for the GAIN participants.

Section 42-750.82 and .821

Specific Purpose:

The purpose of these sections is to establish that: 1) counties are required to inform participants that they are responsible for providing timely notification to the CWD of changes in their supportive services arrangements; and 2) that certain emergency situations may preclude participants from providing timely notice.

Factual Basis:

These sections are necessary in order to provide counties time to assist the participant in making alternative arrangements in case the requested arrangements are unapprovable. Ten calendar days for prior notification is determined to be reasonable because it is consistent with the time frames imposed on counties for timely notice to participants under Section 22-001(a)(23). This regulation is necessary also to ensure federal financial participation (FFP) for child care services inasmuch as 45 CFR 255.4(c)(2) provides that FFP shall be available only if the child care provider meets applicable standards of state and local law, and/or Tribal law, where applicable.

Section 42-750.9 through 42-750.92

Specific Purpose:

The purpose of these sections is to: 1) require counties to consider educational and vocational training grants, scholarships and awards received by GAIN participants in determining the individual needs for GAIN supportive services; and 2) specify that counties must not reduce or deny supportive services if GAIN participants indicate that the financial aid is not available to meet supportive services needs.

Factual Basis:

These sections are necessary to implement the provisions of Welfare and Institutions Code Section 11323.4(d), AB 312, Chapter _____, Statutes of 1990, which require counties to use a consistent methodology when determining the amount of educational financial assistance that is available for the same purpose as the GAIN supportive services payments are intended to cover.

Section 42-750.93

Specific Purpose:

The purpose of this section is to require counties to document all determinations regarding the consideration of a participant's educational grants, scholarships and awards in the case file.

Factual Basis:

This section is necessary to establish documentation that can be tracked at a later date should a disagreement arise over the amount of supportive services paid.

Section 42-750.94

Specific Purpose:

The purpose of this section is to require counties to attempt to enter into written agreements with the financial aid offices of the institutions providing educational and vocational services for the counties. The agreements are intended to avoid duplication of educational aid payments to GAIN participants who are receiving educational aid payments from the institution for the same purpose as those provided by the GAIN Program.

Factual Basis:

This section is necessary to implement the provisions of Welfare and Institutions Code, Section 11323.4(d)(2), AB 312, Chapter _____, Statutes of 1990, which require counties to attempt to enter into agreements with financial aid offices at institutions providing educational and training services for GAIN participants.

Section 42-750.941 (a) through (c)

Specific Purpose:

The purpose of these sections is to define the minimum criteria the county must include in any agreement entered into with an educational or vocational training institution to provide specific supportive services.

Factual Basis:

These sections are necessary to implement the provisions of Welfare and Institutions Code Section 11323.4(d)(2), AB 312, Chapter _____, Statutes of 1990, which mandate counties to attempt to enter into agreements with financial aid offices at institutions providing educational and vocational training services for the CWD while considering individual needs of GAIN participants. These sections will ensure GAIN clients receive the necessary supportive services to participate in the GAIN Program while avoiding duplication of aid payments.

Handbook Section 42-750.942

Specific Purpose:

The purpose of this handbook section is to provide an example of a financial aid agreement described in Sections 42-750.941 (a) through (c).

Section 42-750.95

Specific Purpose:

The purpose of this section is to require that counties exclude, as a resource when determining GAIN participant needs for supportive services payments, educational loans and student work study program awards.

Factual Basis:

This section is necessary to provide a consistent methodology that will not disadvantage the participant for determining the supportive services needs for GAIN participants.

Section 42-751

Specific Purpose:

The purpose of this section is to establish a section which centrally locates regulatory policy regarding overpayments and underpayments of supportive services payments in the Greater Avenues for Independence (GAIN) Program.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ____, Statutes of 1990 regarding underpayment correction and overpayment collection.

Section 42-751.1 through .111

Specific Purpose:

The purpose of these sections is to specify that an underpayment occurs when the applicant or recipient receives less than the amount of supportive services to which he or she is entitled. Action to correct underpayments must be taken within 20 calendar days.

Factual Basis:

These sections are necessary to ensure statewide uniformity and equity in the criteria of what is considered an underpayment. The preamble to the federal regulations at 54 FR 42234, October 13, 1989 states that the Department of Health and Human Services expects prompt correction of underpayments and overpayments. The criteria of underpayments is consistent with Section 44-340.1, which specifies the underpayment criteria used in the AFDC Program.

Section 42-751.12

Specific Purpose:

The purpose of this section is to specify when overpayments occur.

Factual Basis:

This section is necessary to ensure statewide uniformity and equity to participants in the criteria of overpayment collection.

Section 42-751.121 et seq.

Specific Purpose:

The purpose of these sections is to specify that the amount of supportive services payment subject to collection include the amount of supportive services received by the GAIN participant who is absent more than ten percent or in excess of the allowable provider standard without good cause, and when an uncollected unused portion of an advance payment remains after the month of reconciliation as specified in Section 42-750.61.

Factual Basis:

These sections are necessary to ensure statewide uniformity in determining what is considered an overpayment. Section 42-782 and Welfare and Institutions Code Section 11328, AB 312, Chapter ___, Statutes of 1990, provide specific criteria for establishing good cause for nonparticipation. Supportive services payments made to a GAIN participant who has no good cause for not participating are payments made to an ineligible participant. Therefore, these payments meet the criteria of overpayment.

Section 42-751.13 et seq.

Specific Purpose:

The purpose of these sections is to: 1) establish a section which centrally locates regulatory policy regarding what circumstances would not result in an overpayment; 2) specify that no overpayment would result when a child is absent with good cause as specified in (Sections 42-750.335 (a) through (e) and 42-750.37; 3) specify that absences of the participant from GAIN activities that are for reasons that meet the good cause criteria established in GAIN regulations Section 42-782.1 will not result in overpayments; and, 4) specify that no overpayment will result when a GAIN participant loses AFDC eligibility for short periods of time due to CA 7 reporting delays or AFDC administrative errors in the determination of AFDC eligibility.

Factual Basis:

These sections are necessary to ensure statewide uniformity and equity in the criteria used to determine when ineligibility for AFDC and nonparticipation will not result in an overpayment of supportive services paid to the participant during absences.

Section 42-751.2

Specific Purpose:

The purpose of this section is to establish a section which specifies the general provisions that pertain to initiating recovery or collection action.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ___, Statutes of 1990, which require the correction of overpayments.

Section 42-751.21

Specific Purpose:

The purpose of this section is to require counties to take all reasonable steps to promptly correct underpayments and collect any overpayment that is known to the county.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(1) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter _____, Statutes of 1990, which require prompt correction of underpayments and collection of overpayments of supportive services payments known to the county.

Section 42-751.211, .212 and .213

Specific Purpose:

The purpose of these sections is to require that counties attempt recovery of supportive services overpayments in all cases of: 1) suspected fraud; 2) current AFDC recipients; and 3) former AFDC recipients.

Factual Basis:

These sections are necessary to implement the provisions of 45 CFR 255.4 and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ____, Statutes of 1990 which require the attempted collection of supportive services overpayments in these cases.

Section 42-751.22 et seq.

Specific Purpose:

The purpose of these sections is to specify from whom the county shall be allowed to collect overpayments.

Factual Basis:

These sections are necessary to implement 45 CFR 255.4(j)(5) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ____, Statutes of 1990.

Section 42-751.23 and .24 through .241

Specific Purpose:

The purpose of these sections is to specify that counties calculate the amount of the overpayment, determine the appropriate method of recovery and to specify that recovery methods may be used concurrently with the methods that result in the maximum recovery should be used.

Factual Basis:

These sections are necessary to ensure statewide uniformity of action taken by counties in the calculation and recovery of overpayments. The preamble to the federal regulations at 54 FR 42234, October 13, 1989, states that the expectation is that the state will use similar overpayment and recoupment policies as those employed in the AFDC Program. Section 44-352.1 requires the county to calculate the amount of the overpayment and determine the appropriate method of recovery.

Section 42-751.3

Specific Purpose:

The purpose of this section is to establish a regulatory section for location of overpayment collection recovery procedures.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(1) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ___, Statutes of 1990.

Section 42-751.31

Specific Purpose:

The purpose of this section is to require the county to initiate recovery within 30 calendar days of the date the overpayment is first discovered by notifying the individual that he/she must contact the county to arrange a repayment plan. Individuals who have had an unused portion of an advance deferred from collection as specified in Section 42-751.32 have previously received notice of overpayment.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(1) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ___, Statutes of 1990 which require that all reasonable steps be taken to promptly correct any overpayment. The 30-day period was chosen to provide the county with sufficient administrative time for establishing a claim.

Section 42-751.311 et seq.

Specific Purpose:

The purpose of this section is to specify that: 1) recovery action or collection will be taken without further notice when the individual does not respond to the repayment notice within ten calendar days of the date the notice is mailed; 2) the county shall use the payment adjustment method of recovery unless, the county is able to defer collection if the county can document that the provisions of Section 42-751.32 apply.

Factual Basis:

This section is necessary to implement 45 CFR 205.10 which pertains to timely notice. Once the timely notice period has expired, the county is able to take action without further notice.

Section 42-751.312 et seq.

Specific Purpose:

The purpose of these sections is to require the county to include specific information in the overpayment notice to a participant, as specified in Section 42-751.31, as a first step in initiating overpayment collection.

Factual Basis:

These sections are necessary to implement 45 CFR 205.10 which requires that individuals be notified before action is taken to reduce the amount of payment that the individual will receive. These sections are necessary to ensure statewide uniformity and equity to individuals regarding the type of information the participants receive in the repayment notice.

Section 42-751.313

Specific Purpose:

The purpose of this section is to specify that counties must attempt to obtain a signed agreement to repay from the individual.

Factual Basis:

This section is necessary to ensure statewide equity in the treatment of overpayment recoupment.

Section 42-751.32 et seq.

Specific Purpose:

The purpose of this section is to require counties to defer collection of an overpayment if to recover at that time would result in disruption of child care arrangements, preclude participation in the program or prevent acceptance of employment and to require counties to reevaluate the need for the deferred repayment when participation changes occur.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(3) and Welfare and Institutions Code Section 11323.4(b), AB 312, Chapter ___, Statutes of 1990.

Section 42-751.4

Specific Purpose:

The purpose of this section is to establish a regulatory section to describe methods of overpayment recovery.

Factual Basis:

This section is necessary to ensure statewide uniformity in the overpayment recovery procedures used by counties.

Section 42-751.41 and .411

Specific Purpose:

The purpose of these sections is to require that overpayments be balanced against any underpayments of GAIN supportive services payments and to provide counties the method to balance an overpayment against any underpayment.

Factual Basis:

These sections are necessary to implement 45 CFR 255.4(j)(6) which specifies that underpayments may be offset against an overpayment in order to correct an incorrect payment.

Section 42-751.42 and .421

Specific Purpose:

The purpose of these sections is to provide counties the authority to accept any voluntary cash payment from the individual to pay any portion of an existing overpayment in addition to adjustment and balancing.

Factual Basis:

These sections are necessary to implement 45 CFR 255.4(j)(1) which states that an overpayment to an individual currently receiving child care or supportive services must be recovered through repayment (in part or in full) by the family responsible for the overpayment. The preamble to the federal regulations at 54 FR 42234, October 13, 1989, states that the expectation is that the state will use similar overpayment recoupment policies to those employed in the AFDC program. Section 44-351.1 describes the voluntary cash recovery method for the AFDC program.

Section 42-751.43 et seq.

Specific Purpose:

The purpose of these sections is to permit the participant to authorize the overpayment recoupment to be made out of the individual's AFDC grant, if the individual chooses this method of recovery and the individual agrees with the amount of the AFDC grant adjustment.

Factual Basis:

These sections are necessary to implement 45 CFR 255.4(j)(4) which limits the recovery of supportive services from the AFDC grant to situations in which the individual volunteers to have the grant adjusted.

Section 42-751.44 and .441

Specific Purpose:

The purpose of this section is to provide a regulatory section to explain the payment adjustment method of recovery.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(1) which requires that overpayment collection be done through repayment or through reduction in benefits when individuals are currently participating in GAIN and receiving GAIN supportive services.

Section 42-751.442 and .443

Specific Purpose:

The purpose of these sections is to specify that recovery of overpayments of child care cannot be recouped from transportation or ancillary payments and that overpayments of transportation or ancillary payments cannot be recouped from child care payments.

Factual Basis:

These sections are necessary to implement 45 CFR 255.4(j)(4) which limits the recoupment of child care overpayments to adjustment of future child care payments. Also this provision limits the recoupment of other supportive services overpayments to other future supportive service payments.

Section 42-751.444 et seq.

Specific Purpose:

The purpose of this section is to specify that the maximum amount that can be recovered is ten percent of the overpaid amount unless the individual volunteers to pay more and the maximum amount that can be recovered is five percent of the overpaid amount when the overpayment is a result of administrative error, unless the individual volunteers to pay more.

Factual Basis:

This section is necessary to ensure statewide uniformity and equity to families in the amount that is recovered through an adjustment of the supportive services payment. The amount of ten percent and five percent are consistent with the AFDC program.

Section 42-751.445

Specific Purpose:

This section specifies that participants receive notice when recovery is made in full from subsequent supportive services payment.

Factual Basis:

This section is necessary to implement 45 CFR 255.2(h)(1) which requires notification when supportive services payments are reduced, terminated, discontinued, suspended or when they force a change in child care arrangements.

Section 42-751.446

Specific Purpose:

The purpose of this section is to require that if the current payment is not enough to recover by payment adjustment the entire overpayment, the remaining balance is applied to succeeding months.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(1) and to ensure statewide uniformity in the actions taken when the current supportive services payment is not sufficient to recover the entire overpayment. The preamble to the federal regulations at 54 FR 42234, October 13, 1989, states that the expectation is that the state will use similar overpayment and recoupment policies to those employed in the AFDC program. Section 42-352.411(d) describes the application of the balance of the overpayment to the next month's AFDC grant when the overpayment exceeds the amount that can be collected in one month.

Section 42-751.447 and 448

Specific Purpose:

The purpose of these sections is to: 1) specify that when no subsequent supportive services payment exists for an adjustment to be made due to an overpayment, the county must attempt to obtain a new repayment agreement; and 2) require counties to notify the participant when any reduction is made as specified in Sections 42-750.811(c) and (d).

Factual Basis:

These sections are necessary to ensure statewide uniformity and equity in the treatment of overpayment recovery to GAIN participants and to implement 45 CFR 255.2(h)(1).

Section 42-751.5 and .51 et seq.

Specific Purpose:

The purpose of these sections is to: 1) establish a regulatory section that provides a method for recovery by demand, in writing, of GAIN supportive services overpayments from individuals who leave GAIN or refuse to repay or fail to pay as previously agreed and have not entered into a repayment agreement; and 2) exclude on-the-job training participants who go off aid subject to the conditions of Section 42-750.38.

Factual Basis:

These regulations are necessary to implement 45 CFR 255.4(j)(1) and (5) which require that the state must take all reasonable steps necessary to promptly correct overpayments.

Section 42-751.52

Specific Purpose:

The purpose of this section is to require that the county shall continue collection efforts once an initial demand letter has been sent in all cases of fraud, in all cases of involving current recipients and in all cases of former recipients where the overpayment would equal or exceed the cost of recovery.

Factual Basis:

This section is necessary to implement 45 CFR 255.4(j)(7) which mandates that recovery must be attempted in all cases of fraud, in all cases including current participants, and in all cases where the overpayment amount would equal or exceed the costs of recovery. In the event that the overpayment is not a result of fraud or, is not a current recipient and the cost of recovery is greater than the overpayment, it is not cost effective to attempt recovery.

Section 42-751.53

Specific Purpose:

The purpose of this section is to require that counties refer uncollected GAIN child care overpayments to the Transitional Child Care (TCC) program when the individual meets the eligibility criteria for the TCC program and continue to collect according to TCC overpayment procedures.

Factual Basis:

These regulations are necessary to implement 45 CFR 255.4(j)(1) and (4) which state that the state must take all reasonable steps to promptly correct any overpayment and that child care overpayments shall only be collected from other child care payments. Since GAIN child care is Title IV-A and TCC is Title IV-A, it is reasonable to continue collection of an existing overpayment from TCC should the individual apply after having left GAIN.

Section 42-751.6 et seq.

Specific Purpose:

The purpose of these sections is to: 1) establish a regulatory section regarding overpayment record maintenance; 2) require counties to maintain a record of the overpayment which includes the method used for recovery and the dates and amounts recovered; 3) specify that records must be maintained for the time period required for all public assistance cases once the overpayment has been collected.

Factual Basis:

These sections are necessary to implement 45 CFR 255.4(j)(8) which requires states to collect and maintain information on the collection of overpayments. This includes proper documentation of a chronological record of all contacts made regarding the overpayment to assure correct recovery procedures.

MPP 42-760.13 and .131

Specific Purpose:

These sections are being deleted.

Factual Basis:

These deletions are necessary as these provisions are duplicative of provisions contained in the new Section 42-788.

Section 42-760.8

Specific Purpose:

These regulations provide that if an Indian Tribe operates an approved JOBS program under the Family Support Act, tribal members in the service area of that plan may be required to participate in it in lieu of participating in the GAIN program. They also set forth the duties of counties in which a Tribal program is operating.

Factual Basis:

These regulations are necessary to comply with 45 CFR 250.90, 45 CFR 250.94(a)(2), 45 CFR 250.95(b) and 45 CFR 250.97(f)(7) and Welfare and Institutions Code Section 11320.4(e), AB 312, Chapter _____, Statutes of 1990.

Section 42-761.33

Specific Purpose:

This section is being revised to clarify that if a deferral determination is not made before Appraisal, it is to be made at Appraisal.

Factual Basis:

This revision is necessary to clarify that deferral determinations can be made prior to the Appraisal process. To the extent individuals are deferred prior to Appraisal, such individuals would not be required to attend Appraisal, which would result in a program cost savings. In addition, this revision complies with Welfare and Institutions Code, Section 11325, AB 312, Chapter _____, Statutes of 1990 which specifies that some deferral determinations may be made prior to appraisal determinations.

Section 42-761.361(a)

Specific Purpose:

This section is being adopted to specify that a basic literacy needs determination shall be completed for persons who are self-enrolled in a basic education program prior to their initial GAIN appraisal who wish to continue in this program under GAIN.

Factual Basis:

This section is necessary to clarify that the requirements of 45 CFR 250.1 and 250.41(a)(1)(i) which require an assessment of participants' educational needs also apply to these individuals.

Section 42-761.363

Specific Purpose:

This section is being amended to require that participants who are determined to lack basic skills and also appear to lack the ability to benefit from instruction to remedy those skills deficits, be referred for evaluation prior to assignment to a component.

Factual Basis:

This amendment is necessary to comply with Welfare and Institutions Code Section 11325.2(c)(7), AB 312, Chapter ___, Statutes of 1990, and 45 CFR 250.1 which require the establishment of a method by which to determine whether participants can make satisfactory progress.

Section 42-761.371

Specific Purpose:

The purpose of this amendment is to refer to the new expanded child care eligibility criteria and to delete the requirement that all participants with children be automatically referred to child care resource and referral agencies regardless of need.

Factual Basis:

This amendment is necessary for consistency with 45 CFR 255.2(a) and Welfare and Institutions Code Section 11323.6(d)(1), AB 312, Chapter ___, Statutes of 1990.

Section 42-761.372

Specific Purpose:

The purpose of this section is to require counties to encourage GAIN registrants, who have not already done so, to apply for educational and/or vocational training grants, scholarships and awards for which they may be eligible.

Factual Basis:

This section is necessary to implement Section 11323.4(d)(1), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990, which provides that counties will consider educational and vocational training grants, scholarships and awards received by GAIN participants when determining the need for GAIN supportive services payments.

Section 42-761.383

Specific Purpose:

This section repeals the provision that makes the development of a preliminary employment plan optional for custodial parents under the age of 20 who do not have a high school diploma or equivalent.

Factual Basis:

Repeal of this section is necessary in order to comply with 45 CFR 250.41(b), which requires the development of an employment plan for all participants.

Section 42-761.4

Specific Purpose:

This section is being revised to add that an individual who meets a deferral criterion has good cause for not participating.

Factual Basis:

This revision is necessary to clarify that meeting a deferral criterion is good cause for not participating. This is consistent with the provision at Section 42-781.34, which specifies that when an individual has failed or refused to comply with program requirements, the County Welfare Department is required to determine if a deferral would be appropriate. Additionally, Welfare and Institutions Code Section 11325, AB 312, Chapter _____, Statutes of 1990 specifies that individuals meeting a deferral criterion shall not be required to participate.

Section 42-761.4(a)(1) and (2)

Specific Purpose:

This section is being adopted to: 1) allow an individual who, at the time of the initial appraisal, is enrolled in or attending a full-time educational or training program leading

to a degree or certificate to defer from GAIN participation; 2) require maintenance of satisfactory progress in the program to continue the deferral; 3) require maintenance of full-time status unless there is good cause for not attending full-time, but not less than half-time; 4) allow for less than full-time if the individual agrees to full-time as soon as possible; and 5) define the time period allowed to fulfill that agreement.

Factual Basis:

This section is necessary to conform with Welfare and Institutions Code Section 11325(a), AB 312, Chapter ____, Statutes of 1990, which allows participants who are pursuing an educational or training program for a degree or certificate to defer from GAIN participation. This section also conforms to 45 CFR 250.48(a) which specifies that individuals who are attending in good standing a self-initiated activity prior to participation in JOBS may continue that activity. The preamble to the federal regulations at 54 FR 42184, October 13, 1989, clarifies that these regulations apply to individuals who have enrolled in an activity, but have not yet attended class.

Section 42-761.4(1)(1), (2), and (3)

Specific Purpose:

This section is being amended to limit the deferral for 16 and 17 year old parents who are not currently in school and who do not possess a high school diploma to those who have supportive services, intensive case management or other special needs that cannot be met.

Factual Basis:

This section is necessary in order to comply with Welfare and Institutions Code Section 11330.3, AB 312, Chapter ____, Statutes of 1990.

Section 42-761.4(m)(1), (2), and (3)

Specific Purpose:

This section is being revised to renumber subitems (m)(i), (ii), and (iii) to (m)(1), (2), and (3).

Factual Basis:

This renumbering is necessary to correct an error in the numbering sequence and is without regulatory effect.

Section 42-761.4(n) and (o)

Specific Purpose:

These sections are being added to specify that the following individuals shall be deferred from program participation: individuals who lack needed child care for a child described in Section 42-750.2 or for specified children who are not eligible for GAIN paid child care or, individuals who lack needed transportation.

Factual Basis:

These additions are necessary to comply with Welfare and Institutions Code Section 11325(m), AB 312, Chapter __, Statutes of 1990. The definition of children ineligible for GAIN paid child care is consistent with 45 CFR 255.2(a) and Welfare and Institutions Code Section 11323.2(a).

Section 42-761.4(p) and (p)(1)

Specific Purpose:

This section is being adopted to allow an individual who, at the time of the initial appraisal, is in an educational or training program that is not approved as a self-initiated program, to complete a quarter, semester or increment of the program before engaging in the required GAIN activity. This section prevents individuals who are financially or otherwise obligated from having to drop out of school or training mid-course to participate in GAIN. Subitem (1) is being added.

Factual Basis:

This section is necessary to conform with Section 11325(n), Welfare and Institutions Code, AB 312, Chapter __, Statutes of 1990, to allow individuals whose previous education or training commitments prevent immediate participation in GAIN without hardship to the participant. Subitem (1) is necessary to clarify that Section 42-761.4(p) applies only when the requirements of Section 42-761.4(a) cannot be met.

Section 42-761.41

Specific Purpose:

This section is being added to specify that deferral determinations for certain individuals shall be made prior to Appraisal.

Factual Basis:

These additions are necessary to comply with Welfare and Institutions Code Section 11325, AB 312, Chapter __, Statutes of 1990 which specifies that the Department shall promulgate regulations specifying when CWDs shall make deferral determinations. The Department has determined it is appropriate to require that deferral determinations be made prior to Appraisal for individuals who have no legal right to work in the United States, and for individuals who are second parents if the first parent is participating. Clearly those individuals who have no legal right to work in the United States will be not be required to participate in the program; those individuals who are second parents will only be required to participate if the first parent ceases participation. Therefore, the Department has determined that it would be a better use of limited resources to defer these two groups of individuals prior to Appraisal.

Section 42-761.411

Specific Purpose:

This section is being added to specify that certain CWD activities are not required for individuals who are automatically deferred.

Factual Basis:

This addition is necessary to clarify that there is no need for data collection or deferral review activities for those individuals who are automatically deferred and thus receive no GAIN services.

Sections 42-761.42, .43, and .44 (Renumbered from 42-761.41, .42 and .43)

Specific Purpose:

Existing Sections 42-761.41, .42 and .43 are being renumbered to Sections 42-761.42, .43, and .44.

Factual Basis:

This renumbering is a change without regulatory effect and is only for restructuring purposes.

Section 42-771.5

Specific Purpose:

This section is being amended to clarify that the participant contracts and contract amendments need only describe the supportive services generally available to GAIN participants and state that necessary supportive services shall be provided to participants, rather than specify the particular services to be provided each participant.

Factual Basis:

This change is necessary because details of supportive services arrangements for the individual participant will not be contained in the contract or contract amendment, but instead will be contained in notices required by Section 42-750.8. The change is consistent with the requirements of Welfare and Institutions Code Section 11325.2(c)(1)(B), AB 312, Chapter _____, Statutes of 1990 and 45 CFR 255.2(h).

Section 42-772.4

Specific Purpose:

This section is being amended to require the basic contract to provide for two years of participation for an individual who wishes to continue in a self-initiated program under GAIN if he or she: 1) is either enrolled or attending in good standing at the time of the initial appraisal, 2) is in an education or training program which is consistent with the individual's preliminary employment goal and that will likely lead to unsubsidized employment in an occupation in demand, and 3) meets the conditions and limitations specified in Sections 42-772.41 through 42-772.412(c). It also requires counties to notify the individual of the disapproval of the SIP or the SIP extension as provided for in Section 47-772.411.

Factual Basis:

This section is necessary to conform with 45 CFR 250.48(a) which specifies the criteria for qualifying for self-initiated activities. This section is also necessary to conform with Welfare and Institutions Code Section 11325.2(c)(5)(A), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.41 through 42-772.412(c)

Specific Purpose:

These sections are being adopted to : 1) require that the self-initiated program be completed within two years, 2) allow, on an individual basis, for one six-month extension if necessary, under specific circumstances, 3) allow an individual to resume participation if the self-initiated program has been interrupted, and 4) adjust the completion date of the self-initiated program for those interruptions accordingly.

Factual Basis:

These sections are necessary to conform with Welfare and Institutions Code Section 11325.2(c)(5)(A) and (F), AB 312, Chapter ____, Statutes of 1990.

45 CFR 250.48(a)(1)(iv) and (2)(i) also require that the state establish criteria to determine the appropriateness of education or training.

Section 42-772.42 through 42-772.422

Specific Purpose:

These sections are being amended and adopted to establish the indicators for counties to use in determining whether the goal occupation for the individual is in demand in the labor market and the proof that participants may submit to resolve disputes over labor market demand.

Factual Basis:

These sections are necessary to conform to 45 CFR 250.48(a)(1)(iii) and (2)(i), which require that the course of study be consistent with the individual's employment goal. This section also conforms with Welfare and Institutions Code Sections 11325.2(c)(5)(A) and 11326.2(b), AB 312, Chapter ____, Statutes of 1990 concerning the requirements and methods by which the counties determine that the self-initiated education or training leads to an occupation in demand and what information is considered sufficient to resolve disputes. 45 CFR 250.48(a)(1)(iv) and (2)(i) also require the state to establish criteria to determine the appropriateness of education or training.

Section 42-772.43 through 42-772.432

Specific Purpose:

These sections are being adopted to establish indicators of employability for the determination of whether the self-initiated participant needs education or training to be employable and to specify conditions under which these indicators of employability are not applicable.

Factual Basis:

These requirements are necessary to conform with the 45 CFR 250.48(a)(1)(iv) and (2)(i) which require that the state establish criteria to determine the appropriateness of education or training. This section also conforms with Welfare and Institutions Code Section 11325.2(c)(5)(B), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.44 through 42-772.442

Specific Purpose:

This section is being adopted to 1) establish the requirement for full-time attendance in a self-initiated program unless a participant has good cause for not attending full time, or the individual is subject to the 20 hour weekly participation limit, in which case no less than half-time attendance is required and 2) define the period of time a participant has to achieve full-time participation.

Factual Basis:

This section is necessary to conform with Welfare and Institutions Code Section 11325.2(c)(5)(D), AB 312, Chapter _____, Statutes of 1990, which establishes the requirement for self-initiated participants to pursue their education or training on a full-time basis and to define the time period necessary to become full-time. This section is also necessary to allow for less than full-time participation as provided for in Welfare and Institutions Code Sections 11310(b)(6) and 11325.2(c)(5)(D), AB 312, Chapter _____, Statutes of 1990, but limits less than full-time to a minimum of half-time as required by 45 CFR 250.48(a)(1)(i). 45 CFR 250.48(a)(1)(iv) and (2)(i) also require that the state establish criteria to determine the appropriateness of education or training.

Section 42-772.45 (renumbered from 42-772.43)

Specific Purpose:

Existing Section 42-772.43 is being renumbered to Section 42-772.45.

Factual Basis:

The renumbering of Section 42-772.43 is a change without regulatory effect for restructuring purposes only.

Sections 42-772.46 through 42-772.465 (renumbered from 42-772.44 through 42-772.443)

Specific Purpose:

This section is being amended to 1) revise the provisions to account for the allowable extension to self-initiated programs, 2) add provisions in further GAIN components if the self-initiated participant fails or refuses without good cause to increase participation to full-time, or fails or refuses to participate at least half-time, and 3) renumber existing Sections 42-772.44 through 42-772.443 to Sections 42-772.46 through 42-772.465. In addition, minor editorial changes are being made.

Factual Basis:

This section is necessary to conform with Welfare and Institutions Code Sections 11325.2(c)(5)(D) and (E), AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.48(a)(1)(i) which require further participation in GAIN components when the attendance requirements for self-initiated programs are not met. The renumbering of Sections 42-772.44 through 42-772.443 is a change without regulatory effect for restructuring purposes only.

Sections 42-772.47 through 42-772.473 (renumbered from Sections 42-772.46 through 42-772.463)

Specific Purpose:

Existing Sections 42-772.46 through 42-772.463 are being renumbered to Sections 42-772.47 through 42-772.473.

Factual Basis:

The renumbering of Sections 42-772.46 through 42-772.463 is a change without regulatory effect for restructuring purposes only.

Section 42-772.48 (renumbered from Section 42-772.45)

Specific Purpose:

This section is being amended to 1) clarify that a participant is deemed to be making satisfactory progress when the school allows continuation of the program, and 2) renumber existing Section 42-772.45 to Section 42-772.48.

Factual Basis:

This section is necessary to conform with 45 CFR 250.48(a)(1)(ii) and Welfare and Institutions Code Section 11325.2(c)(5)(D), AB 312, Chapter _____, Statutes of 1990. The renumbering of Section 42-772.45 to Section 42-772.48 is a change without regulatory effect for restructuring purposes only.

Section 42-772.5

Specific Purpose:

This section is being amended to replace "remedial education" with "basic skills instruction," and to define basic education.

Factual Basis:

These amendments are necessary to provide clarity for the new subsections which follow and to be consistent with other references to these activities as specified in AB 312, Chapter _____, Statutes of 1990.

Section 42-772.511

Specific Purpose:

This section is being adopted to: (1) specify that specific education participants have to maintain satisfactory progress according to SDSS or provider criteria in their courses of instruction; (2) require Counties to conduct or arrange for an evaluation for individuals unable to meet this progress requirement or who appear to be unable to benefit because of learning or medical problems.

Factual Basis:

This section is necessary to comply with satisfactory progress requirements specified in 45 CFR 250.1, and provisions for the establishment of an administrative system to address these requirements as specified in Welfare and Institutions Code Section 11325.2(c)(7), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.512

Specific Purpose:

This section is being adopted to: (1) define the purpose of the evaluation required in Section 42-772.511; (2) ensure participant involvement in and appeal rights to decisions made during this evaluation; (3) specify what activities can be undertaken during this evaluation; (4) provide, in handbook format, the legislative intent for utilizing this evaluation.

Factual Basis:

See factual basis for Section 42-772.511.

Sections 42-772.56 through .563

Specific Purpose:

These sections are being adopted to: (1) permit individuals self-enrolled in basic education programs prior to their initial GAIN appraisal to continue, if appropriate, in their respective programs; (2) require that their existing educational activities address those literacy or educational deficits identified at appraisal; (3) require participants to provide documentation of attendance and progress; (4) specify that these participants shall be subject to satisfactory progress requirements, and shall proceed to their next activity upon completion of their basic education activity.

Factual Basis:

These sections are consistent with Welfare and Institutions Code Section 11325.2(c)(6), AB 312, Chapter _____, Statutes of 1990, and 45 CFR 250.1, and 250.48(b). 45 CFR 254.48(b) permits approval of self-initiated activities which do not meet the requirements of 45 CFR 250.48(a). These Sections are necessary to prevent interruption of viable educational activities to the detriment of participants.

Section 42-772.57

Specific Purpose:

This section is being adopted to specify: 1) that persons needing basic educational skills shall be determined to have obtained these skills based upon exit criteria provided by SDSS and SDE, and 2) that these exit criteria shall be consistent with appraisal criteria used to determine basic educational skills needs.

Factual Basis:

This section is necessary for clarity and is consistent with provisions for basic educational skills instruction specified in Welfare and Institutions Code Section 11325.2(c)(6), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.6

Specific Purpose:

This section is being amended to include an exception for teenage parents to the limitation on participation for more than 20 hours a week for parents or relatives personally providing care to a child under age six, in accordance with Section 42-772.71.

Factual Basis:

This section is necessary to comply with 45 CFR 250.30(b)(9)(ii), 45 CFR 250.32(a)(1) and with Welfare and Institutions Code Sections 11310(b)(6)(A) and (B), and 11310(d)(1), AB 312, Chapter _____, Statutes of 1990.

Section 45-772.7

Specific Purpose:

This section is being amended to change the term "initial contract" to "participant contract" in order to be consistent with terminology used in other sections, and to add an exception to the participant contract requirement for a custodial parent under age 20 who is in a self-initiated program.

Factual Basis:

The change in terminology is necessary for clarity and consistency. The exception to the participant contract requirements is necessary to comply with Welfare and Institutions Code Section 11310(e), AB 312, Chapter _____, Statutes of 1990. This is a State option under the JOBS Program, which can be exercised in accordance with 45 CFR 250.32(a)(3)(ii).

Section 42.772.71

Specific Purpose:

This section is being amended to delete language which duplicates Section 42-772.6.

Factual Basis:

The deletion of existing language is necessary because the deleted language is duplicative of Section 42-772.6.

Section 42-772.72, .721 and .722

Specific Purpose:

Section 42-772.72 is being amended and Sections 42-772.721 and .722 are being adopted to specify exceptions to the requirement that custodial parents under the age of 20 who do not have a high school diploma or equivalent are limited to and education activity in GAIN. These exceptions are (1) an 18 or 19 year old parent who fails to make satisfactory progress in the educational activity and is assigned to an alternate activity as a result of a progress evaluation, and (2) an 18 or 19 year old who is already in a self-initiated program at the time of initial appraisal.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Sections 11310(b)(6)(B), (d)(1) and (2), and (e), AB 312, Chapter _____, Statutes of 1990. These exceptions are State options under the JOBS Program, in accordance with 45 CFR 250.32(a)(3)(ii).

Section 42-772.73

Specific Purpose:

Existing language is being moved to Section 42-772.79 and new language is being adopted to define the term "teenage parent", as used in Sections 42-772.74 through .78, and to specify that those sections are only required for mandatory participants.

Factual Basis:

This section is necessary for clarity and consistency. Use of the full description in each succeeding section would be cumbersome. Using the shortened term "teenage parents" in the identified sections will assist the reader's understanding. Specifying that Sections 42-772.74 through .78 are not required for volunteers is necessary to comply with Welfare and Institutions Code Section 11330.1(b), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.74, .741 and .742

Specific Purpose:

This section is being adopted to specify that the participant contract for a 16 or 17 year old teenage parent must meet the requirements of a GAIN participant contract, as well as contain a determination of the services to be provided and the education plan to be developed. The purpose of the handbook material is to describe the content of this education plan and to express legislative intent that the education plan not require additional activities beyond those already required from the school district.

Factual Basis:

This section is necessary to comply with Welfare and Institution Code Sections 11330.2 and 11330.4, AB 312, Chapter _____, Statutes of 1990. The content of the plan and the legislative intent is in handbook format because the responsibility for development of the education plan lies with local educational agencies which are under the jurisdiction of the State Department of Education and, as such, are not bound by the requirements of these regulations.

Section 42-772.75

Specific Purpose:

This section is being adopted to specify that GAIN supportive services are limited to those necessary to enable teenage parents to participate in the activities contained in the education plan which is required in Section 42-772.742.

Factual Basis:

This is necessary to comply with Welfare and Institution Code Section 11330.2(a), AB 312, Chapter _____, Statutes of 1990, and 45 CFR 255.2 (a) and (c), which provide that supportive services must be paid to the extent that they are necessary to permit the teenage parent to participate in an approved activity. The only approved activity under the JOBS Program for 16 and 17 year old parents is an educational activity.

Section 42-772.76 and Handbook

Specific Purpose:

-Section 42-772.76 is being adopted to require that necessary case management services and counseling shall be provided to 16 and 17 year old parents, and to those who turn 18 prior to completion of their program, to assist them in their participation in GAIN.

The handbook is being adopted to provide examples of the types of case management services that should be available to teenage parents.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 11330.5(a) and 11330.6(b), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.761

Specific Purpose:

This section is being adopted to require that case managers for teenage parents: (1) have expertise in understanding the needs of teenage parents, and (2) are familiar with the community services that are available to them.

Factual Basis:

This section is necessary to comply with Welfare and Institutions code Section 11330.5(c), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.762

Specific Purpose:

This section is being adopted to specify that case managers who assist teenage parents shall be afforded sufficient time to provide education and supportive services. This recognizes that teenage parents often have special problems which are not necessarily experienced by all GAIN participants and, therefore, may require more case management time.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11330.5(b), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.763

Specific Purpose:

This section is being adopted to require case managers to make reasonable efforts to contact and to counsel teenage parents who are in danger of failing to participate without

good cause, to inform them of the consequences of failure to comply, and make reasonable efforts to secure a face-to-face meeting before a cause determination is made.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11330.10(e), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.77

Specific Purpose:

This section is being adopted to allow Counties to contract for case management services for teenage parents. It limits these contracts to those with school districts, public agencies, nonprofit agencies or agencies that administer the Adolescent Family Life Program.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11330.8(a), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.771

Specific Purpose:

This section is being adopted to specify that contracts with an Adolescent Family Life Program will fulfill the case management requirements in Section 42-772.76

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11330.8(b), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.772

Specific Purpose:

This section is being adopted to require that a County which chooses to contract out for case management services to teenage parents shall maintain at least one staff member with expertise in the special needs of teenage parents to serve as a liaison.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11330.8(d), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.78

Specific Purpose:

This section is being adopted to specify that a teenage parent who is a mandatory participant and who fails or refuses to comply with the GAIN program requirements is subject to the same conciliation and sanction provisions as any other mandatory GAIN participant.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11330.10(a), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.781

Specific Purpose:

This section is being adopted to specify that there are notification requirements for the parent(s) or guardian of an unemancipated 16 or 17 year old parent who fails to comply with program requirements.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 11330.10(b) and (c), AB 312, Chapter _____, Statutes of 1990.

Section 42-772.79 (renumbered from 42-772.73)

Specific Purpose:

Existing section 42-772.73 is being renumbered to Section 42-772.79.

Factual Basis:

This renumbering is a change without regulatory effect for restructuring purposes only.

Section 42-774.14

Specific Purpose:

This section is being amended to clarify that the participant contracts and contract amendments need only state that necessary supportive services shall be provided to participants rather than specify the particular services to be provided each participant.

Factual Basis:

This change is necessary because details of supportive services arrangements for the individual participant will not be contained in the contract or contract amendment, but instead will be contained in notices required by Section 42-750.8.

Section 42-774.2

Specific Purpose:

The purpose of this amendment is to delete the cross-reference to the job search time limits and to clarify that job search during the 90-day period following completion of an assigned training or education activity is not subject to time limitations because it is, in fact, required as a result of the completion of an assigned education or training activity and therefore is not subject to the 40-day limit. The word "component" is being changed to "services" for consistency of terms.

Factual Basis:

These amendments are necessary to conform with 45 CFR 250.60(d) and Welfare and Institutions Code Section 11325.8(a), AB 312, Chapter _____, Statutes of 1990. The editorial correction is necessary for consistency and is a change without regulatory effect.

Section 42-781 - Title

Specific Purpose:

This section title is being amended to delete references to "informal" and "formal" conciliation as these terms are no longer used within the conciliation process. Minor editorial changes are also being made.

Factual Basis:

These amendments are necessary for consistency with language in Welfare and Institutions Code Section 11327.4, AB 312, Chapter _____, Statutes of 1990, which makes no reference to

"informal" or "formal" conciliation. Minor editorial changes are without regulatory effect for consistency with other proposed sections.

Section 42-781.1

Specific Purpose:

This section is being revised to replace the phrase, "meet any of the following program requirements" with, "comply with program requirements;" and, to define the specific program requirements.

Factual Basis:

These revisions are necessary to comply with Welfare and Institutions Code Section 11327.4(a), AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.34(a) which specify that when an individual fails or refuses to comply with program requirements, the CWD shall conduct a cause determination and conciliation. Additionally, the Department has determined the consistent use of the phrase, "comply with program requirements," is necessary for purposes of clarity.

Section 42-781.11

Specific Purpose:

This section is being revised to be grammatically consistent with Section 42-781.1.

Factual Basis:

These revisions are grammatical only and are without regulatory effect.

Section 42-781.12

Specific Purpose:

This section is being revised to specify that failure or refusal to comply with program requirements includes failing or refusing to participate in any assigned activity and to delete the provision that the activity be agreed to in a contract.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Section 11327.4(a), AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.34(a)(2) which specify that failure or refusal to comply with program requirements

includes failing or refusing to participate in an assigned activity; there is no requirement that the activity be a component specified in a contract.

Section 42-781.13

Specific Purpose:

This section is being revised to be grammatically consistent with Section 42-781.1.

Factual Basis:

These revisions are grammatical only and are without regulatory effect.

Section 42-781.14 and .15

Specific Purpose:

These sections are being added to include "terminating employment and reducing earnings" in the definition of failing or refusing to comply with program requirements; and, to specify that a non-exempt participant who becomes employed for 30 or more hours per week and remains on aid, shall be considered to have failed or refused to comply with program requirements if the employment is terminated without good cause.

Factual Basis:

These additions are necessary to comply with Welfare and Institutions Code Section 11327.4(a), AB 312, Chapter _____, Statutes of 1990, 45 CFR 250.34(a) and Federal Action Transmittal FSA-JOBS-90-3.

Section 42-781.2

Specific Purpose:

This section is being amended to replace the terms "explain" and "meet" with "demonstrate" and "comply with," respectively. Minor editorial changes are also being made.

Factual Basis:

These amendments are necessary for consistency with language in Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990 and for grammatical accuracy. Minor editorial changes are without regulatory effect for consistency with other proposed sections.

Section 42-781.21

Specific Purpose:

This section is being amended to: (1) specify that the notice for the initial cause determination appointment shall be in writing; (2) require that the CWD shall make reasonable efforts to send this notice at least six working days prior to the scheduled interview; and, (3) provide that the cause determination interview, not the determination of cause, shall be scheduled to occur within ten working days of the discovery of the refusal or failure to comply with GAIN program requirements. Minor editorial changes are also being made.

Factual Basis:

Items (1) and (3) in the Specific Purpose for Section 42-781.21 are necessary to comply with Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990. Item (2) is necessary to ensure sufficient advance notice of the initial cause determination interview. Minor editorial changes are without regulatory effect for consistency with other proposed sections.

Sections 42-781.211(a), (b) and (c)

Specific Purpose:

These sections are being amended to replace the term "appointment" with the term "interview" and to replace the terms "meet" and "provide an explanation" with "comply" and "demonstrate," respectively. Minor editorial changes are also being made.

Factual Basis:

These amendments are necessary for consistency with existing or proposed regulatory language.

Sections 42-781.211(d) through (k)

Specific Purpose:

These sections are being added or amended to: (1) change the contents of the notice for the initial cause determination interview; (2) renumber existing sections; and (3) make minor editorial changes. The new notice content requirements are: (1) the date, time and location of the scheduled interview; (2) a statement that transportation and child care services are available, if needed, in order to attend the interview; (3) the individual's right to reschedule the initial cause determination interview once,

provided the request for reschedule is made prior to the scheduled interview; (4) a statement that the individual's failure to either attend the cause determination interview or reschedule this interview shall result in a cause determination in his/her absence, based on available information; and (5) the telephone numbers of the local legal services office and welfare rights office or the name, address, and telephone number of the Coalition of California Welfare Rights Organizations, if there are no welfare rights or legal aid offices in the county, which could assist the individual with the cause determination and with conciliation. The obsolete notice content requirements being eliminated are: (1) the consequence of failing to keep the cause determination appointment; (2) a proposed conciliation plan which outlines the terms under which the individual may resume program participation and bring the conciliation process to an end; and (3) the individual's right to offer a counterproposal towards conciliatory resolution. The renumbered sections are as follows: (1) existing Section 42-781.211(e) becomes Section 42-781.211(f); (2) existing Section 42-781.21(f) becomes Section 42-781.211(g); (3) existing Section 42-781.211(i) becomes Section 42-781.211(j); and (4) existing Section 42-781.211(j) becomes Section 42-781.211(k).

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990. Amendment of Section 42-781.211(h) is necessary for consistency with Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990, which specifies that an individual has the right to one reschedule of the initial cause determination interview. Providing this information on the cause determination appointment notice is the most appropriate method of communication. Amendment to Section 42-781.211(j) is necessary for consistency with notice requirements for the conciliation appointment required by Welfare and Institutions Code Section 11327.4(d), AB 312, Chapter _____, Statutes of 1990, and specified in Section 42-781.411(j). The relettering is necessary to maintain a consistent numbering/lettering format.

Section 42-781.212

Specific Purpose:

This section is being amended for minor editorial changes.

Factual Basis:

This amendment is necessary for clarification purposes without regulatory effect.

Section 42-781.213

Specific Purpose:

These sections are being adopted to require that a notice be sent to the parent(s) or legal guardian with whom an unemancipated 16 or 17 year old custodial parent lives, when the teenage parent fails to comply and specify that the teenager's parent or legal guardian shall be allowed to attend specified meetings between the county and the teenage parent.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 11330.10(c), AB 312, Chapter _____, Statutes of 1990.

Section 42-781.22

Specific Purpose:

This section is being amended to: (1) specify that the initial cause determination interview may be rescheduled once, provided the request for reschedule is made prior to the time for the scheduled interview; (2) require that the rescheduled cause determination interview shall take place within ten working days of the initially scheduled interview, unless delayed by extenuating circumstances; and (3) relocate the provision that the CWD may conduct telephone interviews to accomplish the cause determination to Section 42-781.23. Minor editorial changes are also being made.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990. These amendments are also necessary for restructuring purposes without regulatory effect. Minor editorial changes are without regulatory effect for consistency with other proposed sections.

Section 42-781.23

Specific Purpose:

The material in this section is being relocated from Section 42-781.22 and amended to specify that telephone interviews may be performed only if the CWD determines it is appropriate and the individual agrees.

Factual Basis:

Relocation of this provision is without regulatory effect. The added language is necessary for consistency with proposed Section 42-781.43.

Section 42-781.24 (renumbered from Section 42-781.23)

Specific Purpose:

This section is being renumbered from existing Section 42-781.23 to Section 42-781.24. Minor editorial changes are also being made.

Factual Basis:

These amendments are necessary for restructuring purposes. Minor editorial changes are without regulatory effect for consistency with other proposed sections.

Sections 42-781.25 and .251

Specific Purpose:

These sections are being adopted to specify that (1) a cause determination shall be made within 20 working days from the date of the discovery of the refusal or failure to comply with program requirements, unless delayed by extenuating circumstances; and (2) include delay of the initial cause determination interview required in Section 42-781.21 due to insufficient time to issue the notice required in that section at least six working days prior to the scheduled interview as one extenuating circumstance resulting in a delay in determination of cause as specified in Section 42-781.25.

Factual Basis:

Item (1) in the Specific Purpose for Sections 42-781.25 and .251 is necessary to comply with Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990. Item (2) is necessary as an extenuating circumstance to ensure sufficient advance notice of the initial cause determination interview required in Section 42-781.21.

Section 42-781.3

Specific Purpose:

This section is being amended to replace the term "meet" with "comply" and to specify that the county shall notify an individual in writing when a determination of good cause is

made for the failure or refusal to comply with program requirements.

Factual Basis:

This amendment is necessary to comply with Welfare and Institutions Code Section 11327.4(b), AB 312, Chapter _____, Statutes of 1990.

Section 42-781.34

Specific Purpose:

This section is being amended to change the existing reference (Section 42-761.3) to the correct reference (Section 42-761.4).

Factual Basis:

This section is necessary to incorporate a minor reference change for consistency with other proposed sections.

Section 42-781.35

Specific Purpose:

This section is being adopted to require the CWD to determine if exemption is appropriate when an individual is found to have good cause for his/her failure or refusal to comply with program requirements.

Factual Basis:

This section is necessary to conform to existing regulations in Section 42-788.1 which permits individuals to be exempted if appropriate.

Section 42-781.36 (renumbered from Section 42-781.35)

Specific Purpose:

Existing Section 42-781.35 is being renumbered to Section 42-781.36.

Factual Basis:

This renumbering is without regulatory effect and for restructuring purposes only.

Section 42-781.4

Specific Purpose:

This section is being amended to replace the term "meet" with "comply" and to delete the reference to "informal" conciliation.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11327.4, AB 312, Chapter _____, Statutes of 1990. Deletion of reference to informal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.41

Specific Purpose:

This section is being amended to: (1) delete regulations which define informal conciliation; (2) require the CWD to schedule an appointment for conciliation purposes and to notify the individual in writing of this appointment and of the results of the cause determination; (3) specify that the conciliation appointment notice shall be issued within five working days of the cause determination unless delayed by extenuating circumstances; and (4) provide that conciliation shall begin on the date the County issues the notice of the conciliation appointment.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 11327.4(c) and (f)(1), AB 312, Chapter _____, Statutes of 1990. Deletion of reference to informal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.411

Specific Purpose:

This section is being amended to delete regulations which define the purpose of the informal conciliation interview, specify that the notice required in Section 42-781.41 shall be issued at least six working days prior to the scheduled appointment, and adopt the following provisions which specify the contents of the notice that begins conciliation:

- (1) A statement that the individual has been determined to be without good cause for the refusal or failure to comply with program requirements.
- (2) A description of the program requirement(s) with which the individual failed or refused to comply.
- (3) A statement that the individual has entered into a period of conciliation that shall not exceed 30 calendar days.
- (4) The date, time and location of the scheduled conciliation appointment.
- (5) The individual's right to reschedule the conciliation appointment once.
- (6) A statement that transportation and child care services are available if needed in order to attend the appointment.
- (7) A statement that the purpose of the appointment is to attempt to resolve any problems which have contributed to the noncompliance and to reach agreement on program participation.
- (8) A proposed conciliation plan which outlines the terms under which the individual may begin or resume program participation and bring the conciliation process to an end.
- (9) The individual's right to offer a counter proposed conciliation plan, which the county may approve in whole or in part.
- (10) The names, telephone numbers and addresses of the local legal services office and welfare rights office, or the Coalition of California Welfare Rights Organizations if there are no welfare rights or legal aid offices in the county, which could assist the individual with conciliation.
- (11) The consequence of the individual's failure to resolve the dispute by the end of the 30-calendar-day conciliation period.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11327.4(d), AB 312, Chapter _____, Statutes of 1990, which establishes notification requirements for the notice that begins conciliation. Adoption of item (5) is necessary for consistency with Welfare and

Institutions Code Section 11327.4(f), AB 312, Chapter _____, Statutes of 1990 which requires the county to reschedule the conciliation appointment once at the request of the individual. The notice that begins conciliation is the most appropriate vehicle for communication of the individual's right to reschedule. Item (11) is necessary for consistency with existing regulations at Section 42-781.211(j) which is being relocated to proposed Section 42-781.211(k). Adoption of the requirement that the notice in .411 be issued at least six working days prior to the scheduled appointment is necessary to ensure sufficient advance notice of the conciliation appointment required in Section 42-781.41. Deletion of regulations for informal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.412

Specific Purpose:

These sections are being adopted to require that a notice be sent to the parent(s) or legal guardian with whom an unemancipated 16 or 17 year old custodial parent lives, when the teenage parent fails to comply and specify that the teenager's parent or legal guardian shall be allowed to attend specified meetings between the county and the teenage parent.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 11330.10(c), AB 312, Chapter _____, Statutes of 1990.

Section 42-781.413

Specific Purpose:

This section is being amended to: (1) delete regulations which permit the CWD to conduct conciliation in person or by telephone; and (2) provide that the conciliation appointment may be held immediately following the cause determination interview if both the participant and the county agree to this arrangement and the notice required in 42-781.41 is issued prior to the appointment for conciliation.

Factual Basis:

This section is necessary to: (1) accommodate those participants who desire to begin conciliation immediately following the determination of no good cause; (2) prevent unnecessary delay within the conciliation process;

(3) promote county efficiency in conducting conciliation; and
(4) avoid unnecessary transportation and child care expenditures for individuals who participate in the conciliation appointment immediately following the cause determination interview.

Deletion of the existing regulation is necessary because the requirement pertained to informal conciliation which no longer exists as a separate process.

Section 42-781.42

Specific Purpose:

This section is being adopted to specify that individuals may reschedule the conciliation appointment once.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11327.4(f)(1), AB 312, Chapter _____, Statutes of 1990.

Section 42-781.43

Specific Purpose:

This section is being adopted to specify that the CWD may conduct the conciliation appointment by telephone, if the CWD determines it is appropriate and the individual agrees.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11327.4(f), AB 312, Chapter _____, Statutes of 1990 which provides that counties, in conducting conciliation, shall discuss with each individual in person or by telephone those issues affecting participation.

Sections 42-781.44 and 42-781.441

Specific Purpose:

These sections are being adopted to specify that the CWD shall attempt to contact by telephone those individuals who fail to attend the conciliation appointment and shall issue a written notice to those who cannot be reached by telephone or do not have a working telephone.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 11327.4(f), AB 312, Chapter _____, Statutes of 1990.

Section 42-781.5

Specific Purpose:

This section is being amended to: (1) delete regulations which define time parameters for informal conciliation activities; (2) specify that any issue directly affecting an individual's refusal or failure to comply with program requirements may be discussed during conciliation; and (3) allow for the provision of additional information to demonstrate good cause.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11327.4(e), AB 312, Chapter _____, Statutes of 1990. Deletion of regulations for informal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.51 and 42-781.52

Specific Purpose:

These sections are being adopted to: (1) define the individual's right to supervisorial review of the no good cause determination; (2) allow for the provision of additional good cause information; (3) require the issuance of a written notice informing the individual when the determination of no good cause has been reversed and that conciliation has been terminated; (4) specify that the County shall assist the individual in resuming participation; and (5) require that the CWD shall also issue a written notice when a determination of no good cause is upheld by a supervisor.

Factual Basis:

Items (1), (2) and (3) are necessary to comply with Welfare and Institutions Code Section 11327.4(e), AB 312, Chapter _____, Statutes of 1990. Item (4) is necessary for consistency with existing regulations at Sections 42-781.31 through .35, and other proposed sections. Addition of item (5) is necessary for consistency with proposed Sections 42-781.4 and .411(a).

Section 42-781.6 (renumbered from Section 42-781.7)

Specific Purpose:

This section is being amended to: (1) delete existing regulations in 42-781.6 which provide that the CWD shall move to formal conciliation if informal conciliation is unsuccessful in achieving compliance; (2) renumber existing Section 42-781.7 to 42-781.6; and (3) delete the reference to "formal" conciliation.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11327.4(c), AB 312, Chapter _____, Statutes of 1990. Renumbering of Section 42-781.7 is without regulatory effect for restructuring purposes only. Deletion of regulations for informal and formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Sections 42-781.61, 42-781.611, 42-781.612, and 42-781.613

Specific Purpose:

These sections are being amended to: (1) delete regulations which set forth maximum time parameters for the beginning of formal conciliation; and (2) specify that either the individual or the CWD may terminate conciliation before the end of the 30 calendar day period if both the individual and the county agree in writing to terminate conciliation, the determination of no good cause is reversed or the individual successfully fulfills the terms of the conciliation plan.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Sections 11327.4(c), (g), AB 312, Chapter _____, Statutes of 1990. Adoption of Section 42-781.613 is necessary for consistency with other proposed sections. Deletion of regulations for formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Sections 42-781.62, 42-781.621, and 42-781.622

Specific Purpose:

These sections are being amended to: (1) delete regulations regarding the CWD's use of its proposed conciliation plan and/or the individual's counterproposal to encourage compliance with GAIN requirements and resolve problems which

had resulted in noncompliance; and (2) permit a 10-calendar-day extension of the 30-calendar-day conciliation period only if (a) the client has made a reasonable effort to conciliate during the initial 30-calendar-day conciliation period and significant progress has been made toward a resolution of the dispute during that time and (b) the county believes that the 10-calendar-day extension is likely to lead to agreement between the individual and the county on a conciliation plan.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 11327.4(i), AB 312, Chapter _____, Statutes of 1990. Deletion of regulations for formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.63

Specific Purpose:

This section is being amended to delete the reference to formal conciliation. Other minor editorial changes are also being made.

Factual Basis:

This amendment is necessary to conform with Welfare and Institutions Code Section 11327.4, AB 312, Chapter _____, Statutes of 1990. Deletion of regulations for formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.631

Specific Purpose:

This section is being added to specify that the second parent notice required by Section 42-781.63 also inform the second parent that if he or she is under his or her own sanction at the time the first parent is sanctioned, the second parent cannot participate until his or her sanction is completed.

Factual Basis:

This addition is necessary to comply with Welfare and Institutions Code Section 11327.4(c)(1)(C), AB 312, Chapter _____, Statutes of 1990, which specifies that the second parent cannot participate to avoid the first parent's sanction if the second parent is under his or her own sanction at the time of the first parent sanction's imposition.

Section 42-781.66

Specific Purpose:

This section is being revised to specify that a spouse or second parent of a sanctioned first parent shall be allowed to participate to avoid the first parent's sanction even if the spouse or second parent would otherwise be excluded due to a County's service priority.

Factual Basis:

This review is necessary to comply with Welfare and Institutions Code Section 11327.5(c)(1), AB 312, Chapter _____, Statutes of 1990 which replaces the County statutory reduction language and replaces it with language specifying how Counties are to establish a priority for providing services; and, to comply with corresponding revisions to Section 42-720.6.

Section 42-781.7

Specific Purpose:

This section is being adopted to require that a written conciliation plan be entered into and signed by the county and the individual when agreement is reached on program participation during the period of conciliation. This section further specifies that conciliation shall be considered successful if the individual fulfills the terms of the conciliation plan.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11327.4(g), AB 312, Chapter _____, Statutes of 1990.

Sections 42-781.71, 42-781.711, 42-781.712, 42-781.713, 42-781.714 and 42-781.715

Specific Purpose:

These sections are being amended to: (1) delete regulations governing early termination of formal conciliation; (2) require the conciliation plan to specify that the individual must complete the activity agreed to in the plan which may include: attending orientation or appraisal activities; signing the participant contract; participating in a program component and that such participation may be required until the component is completed or for a period of two consecutive

calendar weeks, whichever is shorter; accepting a job offer or job referral; and participating as necessary to remedy termination of employment or reduction of earnings.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Sections 11327.4(a) and 11327.4(g), AB 312, Chapter _____, Statutes of 1990. Addition of accepting a job offer or job referral to the potential requirements for a conciliation plan is necessary for consistency with existing regulations at Section 42-781.13. Deletion of regulations for formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process. The addition of the requirement to participate to remedy termination of employment or reduction of earnings is necessary for consistency with Sections 42-781.14 and .15.

Section 42-781.72

Specific Purpose:

This section is being amended to delete regulations governing early termination of formal conciliation.

Factual Basis:

Deletion of this section is necessary to comply with Welfare and Institutions Code Section 11327.4, AB 312, Chapter _____, Statutes of 1990. Deletion of regulations for formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-781.8

Specific Purpose:

This section is being amended to: (1) delete regulations which require the CWD to notify the individual in writing of his/her successful completion of the conciliation plan; and (2) specify that an individual shall be given the opportunity to demonstrate good cause for failing or refusing to fulfill the terms of an agreed-upon conciliation plan.

Factual Basis:

These amendments are necessary to comply with Welfare and Institutions Code Section 11327.4(h), AB 312, Chapter _____, Statutes of 1990. The existing regulation is being deleted because it is not required by Welfare and Institutions Code Section 11327.4, AB 312, Chapter _____, Statutes of 1990.

Section 42-781.81

Specific Purpose:

This section is being adopted to: (1) require that the CWD issue a written appointment notice following an individual's failure or refusal to fulfill the terms of an agreed-upon conciliation plan; (2) specify that this appointment shall be held within 10 working days of the discovery of the individual's failure or refusal to fulfill the terms of the conciliation plan, unless the county is delayed by extenuating circumstances; and (3) define insufficient time to issue the notice required in Section 42-781.81 at least six working days prior to the scheduled appointment as one extenuating circumstance resulting in delay of the aforementioned appointment.

Factual Basis:

Items (1) and (2) in the Specific Purpose for Section 42-781.81 are necessary to comply with Welfare and Institutions Code Section 11327.4(h), AB 312, Chapter _____, Statutes of 1990. Item (3) is necessary to ensure sufficient advance notice of the appointment for cause determination which follows failure to comply with the terms of an agreed-upon conciliation plan.

Section 42-781.811

Specific Purpose:

This section is being adopted to establish requirements for the written appointment notice issued following an individual's failure or refusal to fulfill the terms of a conciliation plan. The following appointment notice requirements are being adopted: (1) a statement that the appointment is to determine if the individual had good cause for not complying with the terms of the conciliation plan; (2) a description of the conciliation plan requirement(s) with which the individual failed or refused to comply; (3) a statement that the individual has the right to demonstrate why he/she failed or refused to comply with the terms of the conciliation plan; (4) the date, time and location of the scheduled appointment; (5) a statement that transportation and child care services are available if needed in order to attend the appointment; (6) a listing of what may constitute good cause for failing or refusing to comply with the terms of the conciliation plan; (7) a statement that failure to attend this appointment shall result in a cause determination in the individual's absence, based on available information; (8) the names, telephone numbers, and addresses of the local legal services office and welfare rights office or the

Coalition of California Welfare Rights Organizations if there are no legal aid or welfare rights offices in the county, which could assist the individual with this cause determination; (9) a statement that the individual shall be subject to sanctions if he/she is found to be without good cause for not complying with the terms of the conciliation plan.

Factual Basis:

This section is necessary for consistency with other proposed sections regarding the initial cause determination interview and conciliation appointment notices as specified in Sections 42-781.211 and .411.

Section 42-781.812

Specific Purpose:

These sections are being adopted to require that a notice be sent to the parent(s) or legal guardian with whom an unemancipated 16 or 17 year old custodial parent lives, when the teenage parent fails to comply and specify that the teenager's parent or legal guardian shall be allowed to attend specified meetings between the county and the teenage parent.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 11330.10(c), AB 312, Chapter _____, Statutes of 1990.

Section 42-781.82

Specific Purpose:

This section is being adopted to specify that if an individual fails to attend the cause determination appointment which follows his/her failure or refusal to fulfill the terms of an agreed-upon conciliation plan, the CWD shall make a cause determination in his/her absence based on available information.

Factual Basis:

This section is necessary for consistency with existing regulations at Section 42-781.23 (proposed regulations renumber Section 42-781.23 to Section 42-781.24).

Sections 42-781.83 and 42-781.831

Specific Purpose:

These sections are being adopted to: (1) specify that if the CWD determines the existence of good cause for the failure or refusal to comply with the agreed-upon conciliation plan, the CWD shall assist the individual as necessary so that participation in the conciliation plan may begin or resume; (2) provide that nothing in this section shall preclude deferral or exemption as appropriate; and (3) include cross-references to Sections 42-761.4 and 42-789 through 42-799, which define deferral and exemption criteria.

Factual Basis:

Adoption of Section 42-781.83 is necessary for consistency with Welfare and Institutions Code Section 11327.4(g) (AB 312, Chapter ____, Statutes of 1990), and proposed regulations at Section 42-781.7, which state that conciliation is successful when the individual subsequently fulfills the terms of an agreed-upon conciliation plan. Those who have good cause for failing or refusing to comply with the terms of an agreed-upon conciliation plan and who are immediately able to begin or resume participation must complete an agreed-upon conciliation plan to successfully end conciliation.

Adoption of Section 42-781.831 is necessary for consistency with existing regulations at Sections 42-761.4 and 42-789 through 42-799, which list deferral and exemption criteria. Participation may not be required of an individual who meets any of these criteria.

Section 42-781.84

Specific Purpose:

This section is being adopted to: (1) specify that an individual shall be subject to sanctions if the CWD determines that no good cause existed for the failure or refusal to fulfill the terms of the agreed-upon conciliation plan; and (2) add a cross-reference to regulations at Section 42-786 which address application of sanctions to mandatory and volunteer participants.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 11327.4(i) (AB 312, Chapter ____, Statutes of 1990).

Section 42-781.9

Specific Purpose:

This section is being amended to: (1) delete the reference to the "formal conciliation process" and "financial" sanctions; (2) delete regulations which define the cause determination and formal conciliation procedures as the same as those used for a formal grievance based on Section 5302 of the Unemployment Insurance Code; and (3) specify that sanctions shall be imposed on those who continue to fail or refuse to participate at the end of the 30-calendar-day conciliation period. Other minor editorial changes without regulatory effect are also being made.

Factual Basis:

This amendment is necessary to comply with Welfare and Institutions Code Section 11327.4(i), AB 312, Chapter _____, Statutes of 1990, which establishes a cause determination/conciliation process different from that set forth in Section 5302 of the Unemployment Insurance Code. Deletion of references to formal conciliation is necessary as informal and formal conciliation are being integrated into one conciliation process.

Section 42-782.1

Specific Purpose:

This section is being revised to specify that good cause exists for failing or refusing to comply with program requirements as defined in Section 42-781.1 for the reasons specified in Section 42-782.1(a)-(o).

Factual Basis:

For purposes of clarity, this revision is necessary to consistently use the phrase, "comply with program requirements" and to refer to its definition as specified in Section 42-781.1.

Section 42-782.1(i)

Specific Purpose:

This section is being revised to specify that good cause exists for failure or refusal to comply with program requirements if child care is needed but is not available for a child who meets the criteria specified in Section 42-750.22 but who does not meet the criteria of Section 42-750.21 and therefore is not eligible for GAIN paid child care.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Sections 11323.2(a) and 11328(i), AB 312, Chapter _____, Statutes of 1990 and 45 CFR 255.2(a).

Sections 42-782.1(i)(2)

Specific Purpose:

These sections are being amended to correct a cross-reference.

Factual Basis:

The correction of the cross-reference is necessary to change the cross-reference in Section 42-782.1(i)(2) from Section 42-750.21 to Section 42-750.31.

Section 42-782.1(n)

Specific Purpose:

This section is being revised to specify that any of the deferral criteria specified in Section 42-761.4(a) through (p) and any of the exemption criteria specified in Sections 42-789 through 42-799 constitute good cause for failing or refusing to comply with program requirements.

Factual Basis:

This revision is necessary to be consistent with Section 42-761.4 which specifies that individuals meeting a deferral criterion have good cause for not participating and with Sections 42-781.34 and .35 which specify that when an individual has failed or refused to comply with program requirements, the CWD must determine if deferral or exemption of the individual would be appropriate; if so, the individual would thus have good cause. This revision is also necessary to comply with Welfare and Institutions Code Section 11325, AB 312, Chapter _____, Statutes of 1990 which specifies that individuals meeting a deferral criterion are not required to participate; and with 45 CFR 250.35(d) which requires states to develop good cause criteria.

Section 42-782.2 and .21

Specific Purpose:

This section is being revised to change the absent/tardy standard from less than ten percent of the weekly hours to up to ten percent of the monthly hours or the provider's standard.

Factual Basis:

This revision is necessary to comply with Section 11328(a)(12), Welfare and Institutions Code, AB 312, Chapter ___, Statutes of 1990.

Section 42-782.3, et seq.

Specific Purpose:

These sections are being added to specify the good cause criteria for terminating employment and reducing earnings.

Factual Basis:

These additions are necessary to comply with Section 11328.1, Welfare and Institutions Code, AB 312, Chapter ___, Statutes of 1990 which specifies the good cause criteria for terminating employment and reducing earnings, and with 45 CFR 250.35(d) which requires the state to establish good cause criteria.

Section 42-783.1(b)

Specific Purpose:

This section is being revised to add the additional criterion that the employment, offer of employment or required activity is inappropriate if it requires the participant to remain away from home overnight without his/her consent.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Section 11328(a)(14), AB 312, Chapter ___, Statutes of 1990.

Section 42-784.422

Specific Purpose:

This section is being revised to delete the provision that, when determining if a net loss of income (NLI) would exist, child care expenses for only those participants who would go off aid and would not be eligible for transitional child care (TCC) are to be considered. This section instead provides that child care expenses shall be considered for all participants, including those who would be eligible for TCC and would have a TCC share of cost.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Section 11328(k), AB 312, Chapter __, Statutes of 1990 which specifies that, when determining if a net loss of income would exist, child care expenses for all participants are to be considered, including those who would have a TCC share of cost.

Section 42-784.422(b)

Specific Purpose:

This section is being added to cross-reference Section 47-130 which specifies the share of cost amounts for those individuals eligible for TCC.

Factual Basis:

This addition is necessary to identify the TCC share of cost amounts for purposes of calculating NLI as specified in Section 42-784.422.

Section 42-784.43

Specific Purpose:

This section is being amended to correct a cited reference.

Factual Basis:

The correction of the cited reference .42 to Section 42-784.42 is necessary for clarity and completeness.

Section 42-784.44

Specific Purpose:

This section is being added to specify that if the gross earnings from the job offered are insufficient to immediately make the family ineligible for aid, the cash assistance they would continue to receive is to be added into the NLI calculation.

Factual Basis:

This addition is necessary to comply with Welfare and Institutions Code Section 11328(k), AB 312, Chapter __, Statutes of 1990 and 45 CFR 250.35(c)(2) which specify that cash assistance is to be added into the NLI calculation.

Section 42-784.441

Specific Purpose:

This section is being added to specify that when determining the amount of the cash assistance grant for purposes of the NLI calculation, the AFDC one-third work expense disregard shall be excluded.

Factual Basis:

This addition is necessary to specify the exclusion of the AFDC one-third work expense disregard from the cash assistance grant calculation for purposes of determining NLI. While 45 CFR 250.35(c)(2) specifies that the grant amount is to be added into the NLI calculation, it does not specify how the grant amount is to be determined. Welfare and Institutions Code Section 11328(k), AB 312, Chapter _____, Statutes of 1990, requires that gross income and work-related expenses be defined so as to retain federal financial participation.

The one-third work expense disregard is available to AFDC recipients who become employed for the first four months of their employment. The Department has determined that inclusion of this disregard is harmful to the participant in that it does not provide him/her with the information needed to make a well-informed decision about accepting a job. If the disregard is included in the NLI calculation, there would be no net loss of income for the four months the disregard is available. However, in the fifth month, when the disregard is no longer available, there would be a net loss of income; in many cases it would exceed \$200 per month.

Therefore, in the best interest of the participant, the Department has determined it is appropriate to exclude the one-third work expense disregard when calculating NLI.

Section 42-784.51, .52 and .53

Specific Purpose:

These handbook sections are being added to provide various examples of how to calculate NLI.

Factual Basis:

These additions are necessary to provide clarification on how to calculate NLI.

Section 42-786 and 42-786.1

Specific Purpose:

This section is being revised to delete the word "Financial" from the title; to replace "meet program requirements" with "comply with program requirements"; and, to cross-reference Section 42-781.1 which defines fails or refuses to comply with program requirements.

Factual Basis:

The title is being revised because some sanctions have no effect on the individual's AFDC grant. For purposes of clarity, it is necessary to consistently use the phrase, "comply with program requirements" and to refer to its definition as specified in Section 42-781.1

Section 42-786.21

Specific Purpose:

This section is being amended to define when an instance of non-compliance occurs for purposes of determining the appropriate GAIN financial sanction.

Factual Basis:

This revision is necessary to comply with Section 11327.4(j), Welfare and Institutions Code, AB 312, Chapter __, Statutes of 1990.

Sections 42-786.22 through .251 (renumbered from 42-786.21 through 42-786.241)

Specific Purpose:

These sections are being revised to change the requirements a sanctioned individual must meet to cure (end) a financial sanction and to renumber the existing sections.

Factual Basis:

These revisions are necessary to comply with Welfare and Institutions Code Section 11327.5(d), AB 312, Chapter __, Statutes of 1990. The renumbering is for restructuring purposes only and has no regulatory effect.

Section 42-786.311

Specific Purpose:

This section is being revised to clarify that the section applies to a parent in a family whose deprivation is based on the absence or incapacity of a parent.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Section 11325.7(c)(2), AB 312, Chapter ___, Statutes of 1990 by clarifying that the provisions of this section apply to parents in families where a parent is absent or incapacitated, as opposed to the provisions of Section 42-786.314 which apply to parents in a family where the principal earner is unemployed.

Section 42-786.313

Specific Purpose:

This section is being revised to specify that when an only eligible child is financially sanctioned, only that child's aid is discontinued; aid to the remainder of the family is continued.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Section 11327.5(c)(3), AB 312, Chapter ___, Statutes of 1990 and 45 CFR 250.34(c)(3) which specify that when an only eligible child is financially sanctioned, aid for only that child is discontinued; aid to the remainder of the family is continued. Currently, when the only eligible child is sanctioned, aid is discontinued to the entire family.

Section 42-786.314(a)

Specific Purpose:

This section adds two new subitems, (a) and (b), which: specify that for purposes of avoiding the first parent's sanction, employment of at least 40 hours per week at minimum wage of the spouse/second parent meets the participation requirement of Section 42-786.314; and, that the exemption and deferral criteria specified in Sections 42-789 through 42-799 and 42-761.4 do not apply to a spouse/second parent who is participating to avoid the first parent's sanction. Existing subitems (a), (b), (c), and (d) have been relettered accordingly.

Factual Basis:

The addition of subitem (a) is necessary because full-time employment is the goal of the GAIN program and requiring an individual who is so employed to quit his/her job would be counterproductive and harmful to the individual and his/her family. The addition of subitem (b) is necessary to comply with Welfare and Institutions Code Sections 11327.5(c)(1)(A) and (B), AB 312, Chapter _____, Statutes of 1990, 45 CFR 250.34(c)(2) and the preamble to the federal regulations at 54 FR 42173, October 13, 1989 which specify that for a spouse/second parent to continue receiving aid when the first parent has been sanctioned, the spouse/second parent must be participating in the program. The preamble clearly indicates federal intent: "Therefore, if one parent is not participating, the other is obliged to do so." The relettering of existing subitems (a) through (d) is necessary to maintain proper numbering/lettering format.

Subsections 42-786.314(g), et seq.

Specific Purpose:

These subsections are being added to specify that: (1) a spouse/second parent who is participating to avoid the first parent's sanction and who fails or refuses to comply with program requirements, shall be discontinued from aid until the first parent has cured his/her sanction; (2) the effective date of the spouse/second parent's discontinuance shall be the first day of the first payment month following the date of the non-compliance and the county's timely notice; and (3) that exemption, deferral, conciliation and good cause criteria do not apply to the spouse/second parent.

Factual Basis:

These additions are necessary to comply with Welfare and Institutions Code Section 11327.5(c)(1)(B), AB 312, Chapter _____, Statutes of 1990, 45 CFR 250.34(c)(2) and the preamble to the federal regulations at 54 FR 42173, October 13, 1989 which specify the provisions that apply when a spouse/second parent, who is participating to avoid the first parent's sanction, fails or refuses to comply with program requirements. The preamble clearly indicates federal intent: "Therefore, if one parent is not participating, the other is obliged to do so".

Section 42-786.42

Specific Purpose:

This section is being added to specify that an individual who receives a first sanction, which is curable at any time, can cure the sanction during the period of timely notification prior to the imposition of the sanction.

Factual Basis:

This addition is necessary to clarify that an individual who has received the first sanction which is curable at any time, can cure the sanction during the timely notice period, prior to the imposition of the sanction.

Section 42-786.71

Specific Purpose:

This section is being revised to change the cross-reference.

Factual Basis:

This amendment is necessary to correct the cross-reference cite from Section 42-720.671 to 42-720.635.

Section 42-788, et seq.

Specific Purpose:

This section is being repealed as it is unnecessary and duplicative of Sections 42-789 through 42-799.

Factual Basis:

The Department has determined that this section is unnecessary and duplicative of Sections 42-789 through 42-799.

Sections 42-788.1 and .11

Specific Purpose:

These sections are being added to specify that individuals who meet any of the criteria specified in Sections 42-789 through 42-799 are exempt from GAIN registration and participation; and, that such individuals may volunteer to participate.

Factual Basis:

This addition is necessary to comply with Welfare and Institutions Code Sections 11310(b) and (c) and 11320.4(a), AB 312, Chapter __, Statutes of 1990 and 45 CFR 250.30(a) and 250.31 which specify that individuals who meet an exemption criterion are exempt from program registration and participation, but may volunteer if they so choose.

Sections 42-788.2, et seq.

Specific Purpose:

These sections are being added to specify the notification requirements when an individual's participation status changes.

Factual Basis:

These additions are necessary to comply with 45 CFR 250.30(c)(2) which requires that when an individual's participation status changes from exempt to mandatory or mandatory to exempt, the individual and appropriate service providers are to be notified. The Department has determined that the appropriate service provider is the individual's case management provider.

Section 42-790.1

Specific Purpose:

This section is being amended to prohibit an individual who has dropped out of school from requalifying for this exemption again by attending an education activity as a GAIN assignment. Also "child" was changed to "individual" and a minor editorial change was made.

Factual Basis:

This amendment is necessary to comply with 45 CFR 250.30(b)(1)(ii) and with the provisions of Welfare and Institutions Code Section 11310(b)(2), AB 312, Chapter __, Statutes of 1990, that prohibit requalifying for this exemption by attending school as a required GAIN activity, and to clarify that this provision applies to individuals who are custodial parents as well as individuals who are dependent children. The editorial change is for consistency and has no regulatory effect.

Section 42-792.1

Specific Purpose:

This section is being revised to change the age exemption from age 65 or older to age 60 or older.

Factual Basis:

This revision is necessary to comply with 45 CFR 250.30(b)(4) which specifies that individuals who are age 60 or older are exempt from program participation/registration.

Section 42-793.1

Specific Purpose:

This section is being revised to delete a qualifying condition for the incapacity exemption and to revise the provision regarding postpartum recovery.

Factual Basis:

These revisions are necessary to comply with 45 CFR 250.30(b)(3) which does not include the provision "by itself or in conjunction with age" in the incapacity exemption; and with Welfare and Institutions Code Section 11310(d)(3), AB 312, Chapter __, Statutes of 1990 and 45 CFR 250.30(b)(3) which specify that an individual who is under age 20 and who does not have a high school diploma or equivalent can be exempt from program participation for a period of postpartum recovery as prescribed by her physician.

Section 42-794.1

Specific Purpose:

This section is being revised to specify that an individual is exempt when he/she is remote from a program activity, rather than a program component.

Factual Basis:

This revision is necessary to comply with Welfare and Institutions Code Section 11310(b)(4), AB 312, Chapter __, Statutes of 1990 which specifies that an individual is exempt from program participation if he/she is remote from a program activity.

Sections 42-799.1, .2, and .3

Specific Purpose:

These sections are being added to specify: that an individual who is a volunteer in the Volunteers In Service To America (VISTA) program is exempt from program participation; the documentation required to qualify for the exemption; and, the review criteria for the exemption.

Factual Basis:

These additions are necessary to comply with Welfare and Institutions Code Section 11310(b)(9), AB 312, Chapter __, Statutes of 1990 and 45 CFR 250.30(b)(10) which establish an exemption for individuals who are VISTA volunteers; and, with 45 CFR 250.30(c)(1) which specifies that exemptions be reviewed when the qualifying condition is expected to change, but not less often than once a year. The provisions regarding documentation are included to be consistent with the other exemption provisions, all of which require documentation.

c) Identification of Documents Upon Which Department Is Relying

- 1) Welfare and Institutions Code, AB 312, Chapter __, Statutes of 1990;
- 2) 45 CFR 250 through 256;
- 3) 54 FR 42146 through 42241, October 13, 1990;
- 4) Public Law 100-485; and
- 5) Federal Action Transmittal Number JOBS-FSA-AT-90-3, February 5, 1990.

d) Testimony and Response

[To be completed after the Public Hearing.]

e) Local Mandate Statement

These regulations do constitute a mandate on local agencies, and on local school districts. There are no state mandated local costs that require reimbursement, because funding is provided in the Budget Act to cover any costs that local agencies may incur.

f) Statement of Potential Cost Impact on Private Persons or Businesses and of Alternatives Considered

SDSS has determined that these regulations will have no fiscal impact on private persons or businesses.

SDSS has determined that no alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons than the proposed action.

g) Small Business Impact Statement

SDSS has determined that these regulations will have no adverse fiscal impact on small businesses.

Amend Sections 42-720.13, to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.13 The primary GAIN participants are AFDC applicants and recipients. The county may also provide services to refugees receiving or applying for Refugee Cash Assistance (RCA)/ ~~Refugee Demonstration Project (RDP)~~ and/or to General Assistance applicants and recipients, except that no funds appropriated for GAIN shall be used to serve these individuals.

.131 If a county elects to serve these individuals, the county shall maintain separate accounting records of expenditures for AFDC applicants and recipients and for RCA/ ~~RDP~~ and General Assistance applicants and recipients.

.132 (Continued)

.133 (Continued)

.134 (Continued)

~~1135 If a county elects to serve RDP program applicants and recipients, MPP Chapter 42-700 provisions shall apply to these individuals.~~

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~~1A) All AFDC program regulations apply to RDP recipients except:~~

~~11) The \$30 and 1/3 earned income disregard (see MPP 44-111/23 and 69-207/11) and;~~

~~12) The 100-hour work rule (see MPP 41-440/7 and 69-208/411).~~

~~1B) RDP recipients must accept any appropriate job referral/offer regardless of the wage (see MPP Section 69-208/11).~~

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 42-720.22 and 42-720.324(a) to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.2 Time Frames

.21 (Continued)

.22 (Continued)

.23 (Continued)

.3 County Plan Content

.31 (Continued)

.32 (Continued)

.321 (Continued)

.322 (Continued)

.323 (Continued)

.324 The amount and kind of services required to meet the full employment goal for all registrants.

(a) The CWD shall study the characteristics of its potential participant caseload. From this caseload analysis, the CWD shall specify its target groups and the choices that shall be made available to each target group which groups of potential participants it plans to serve, consistent with the priority order for program participation specified in Sections 42-720.632 and .633.

Authority Cited: Section 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.6(b), 11321.2 and 11322.4, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-720.3, .4 and .5 to read:

42-720 THE GAIN COUNTY PLAN

42-720

.1 (Continued)

.2 (Continued)

.3 (Continued)

.31 (Continued)

.32 (Continued)

.321 (Continued)

.322 (Continued)

.323 (Continued)

.324 (Continued)

.325 (Continued)

(a) (Continued)

(b) (Continued)

(c) The plan shall contain a description of the required services that are available to custodial parents under the age of 18 who are required to participate in GAIN. All of the following shall be included:

(1) An identification of education and supportive services available to teenagers.

(2) The extent to which the programs providing these services are currently serving AFDC recipients.

(3) The resources that these programs may make available to GAIN participants.

(4) The linkages that the CWD has established or plans to establish with these programs.

(5) A description of the method of providing the case management services as described in Section 42-772.76. If the CWD chooses to contract out some or all of the case management services, the plan shall list the specific reasons for that decision.

(d) A county plan update containing the requirements of Section 42-720.325(c) shall be submitted to SDSS no later than March 1, 1991.

.326 (Continued)

.33 (Continued)

.34 (Continued)

.35 (Continued)

.4 County Board of Supervisors Plan Approval

.41 (Continued)

.411 In approving the plan, the board shall consider the views presented by affected parties, and include these views as part of the record of the public hearing. The county shall ensure that these records are available for three years.

(a) The CWD shall provide evidence of public notification allowing for adequate notice to and comments from ~~to~~ affected groups and individuals in the county plan.

(b) (Continued)

.412 Annual updates and any significant revisions to the county plan shall be approved by the county board of supervisors.

(a) (Continued)

(b) (Continued)

(c) (Continued)

(d) Each county shall make available a copy of its annual or significantly revised plan to any local Private Industry Council (PIC), local legal aid and welfare rights representatives and public housing authorities operating within its jurisdiction for review and comment prior to submission.

(1) When submitted, the annual plan update shall be accompanied by a letter from any affected PICs certifying the level of local cooperation, including joint planning and the use of local labor market information.

.5. SDSS County Plan Approval

.51 Prior to implementation and at the beginning of each fiscal year following the initial plan approval, each plan shall be approved by SDSS. Any significant revision of a county plan must also be approved by SDSS prior to implementation.

HANDBOOK BEGINS HERE .

.52 (Continued)

HANDBOOK ENDS HERE

.53 (Continued)

.531 (Continued)

.532 (Continued)

.54 (Continued)

.55 (Continued)

.56 (Continued)

.57 SDSS approval of a county plan ~~is~~ shall be dependent upon but not limited to the following ~~among other things:~~

.571 (Continued)

.572 (Continued)

1573 Whether a phase-in plan is likely to result in the subsequent removal of a disproportionate number of active participants from the program if reductions are implemented pursuant to Section 42-720.161

.573 Whether the plan contains an identification of, and linkages or planned linkages to, education and supportive services and a description of the case management services available to custodial parents under the age of 18, as specified in Section 42-720.325(c).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.8(c), 11321, 11321.2(a), 11330.5(d), 11330.8(c) and 11330.9, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.12(c).

Amend Section 42.720.6 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.6 CWP Reduction Plan GAIN TARGET POPULATION PRIORITY

.61 (Continued)

.62 (Continued)

.621 (Continued)

.622 (Continued)

.623 A statement proposing to reduce costs in accordance with the specified methods in 163 below/ a manner which gives priority to the target population as specified in Section 42-720.63.

163 The CWP shall use the following methods to reduce costs and shall use only those methods that are necessary to bring anticipated expenditures within the amounts allocated to the CWP/

1631 Counties in their phase-in period shall first have intake into the GAIN program in the following order/

1a) Aid to Families with Dependent Children/ Unemployed Parent Program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration/

1b) Aid to Families with Dependent Children/ Family Group Program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration/

1c) Aid to Families with Dependent Children/ Family Group or Unemployed Parent recipients/ excluding teenage parents/ who voluntarily register for GAIN although exempt from registration/

1d) All Aid to Families with Dependent Children/ Unemployed Parent recipients who have been on aid for less than one year/

- 1ey ALL Aid to Families with Dependent Children/Unemployed Parent recipients who have been on aid continuously for less than two years/
 - 1fy ALL Aid to Families with Dependent Children/Family Group recipients who have been on aid for less than one year/
 - 1gy ALL Aid to Families with Dependent Children/Family Group recipients who have been on aid continuously for less than two years/
 - 1hy VOLUNTEER teenage parent registrants/
 - 1iy ALL remaining Aid to Families with Dependent Children recipients/ with recipients who have been on aid the longest being the last to be excluded/
- 1332 Counties that have fully phased in their caseload/ shall first take into the GAIN program as follows/
- 1ay Aid to Families with Dependent Children/Unemployed Parent program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration/
 - 1by Aid to Families with Dependent Children/Family Group program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration/
 - 1cy Aid to Families with Dependent Children/Family Group of Unemployed Parent recipients/ excluding teenage parents/ who voluntarily register for GAIN although exempt from registration/
 - 1dy Recipients whose registration status changes from exempt to mandatory/
 - 1ey Recipients who lose their deferral status/

164 If reductions under sections 42-720.631 or 632 are not sufficient to bring anticipated expenditures within the county's allocation, the CWD shall exclude from program participation recipients who are currently participating in a program component. The CWD shall exclude participants in the following order:

1a) Volunteers, except for teen parents, currently participating in a program component, shall be the first to be excluded from continued program participation.

1b) All other participants in the order listed in sections 42-720.631/1a) through 1c).

.63 CWD cost reductions must be achieved primarily by reducing the number of participants in the program in the priority order of groups described in Sections 42-720.632 and 42-720.633, taking into account the target population described in 42-720.635. CWDs may make program efficiencies to the extent that these do not threaten the guarantee of services and do not create an effective barrier to current or future participation of GAIN clients.

HANDBOOK BEGINS HERE

.631 Examples of program efficiencies which do not threaten the guarantee of GAIN services include, but are not limited to, the following:

- (a) Consolidation of GAIN offices when this would allow maintenance of the full range of services to GAIN participants.
- (b) Changes in administrative procedures which would result in the elimination of staff positions or certain services providers but still maintain the full range of services to GAIN participants.

HANDBOOK ENDS HERE

.632 If funds are sufficient to serve all existing participants, but not sufficient to serve all potential GAIN participants, CWDs shall bring new individuals into GAIN according to the following list beginning with the highest priority:

- (a) Members of the target population who are required to register for GAIN and who volunteer to participate in GAIN.

- (b) Members of the target population who are exempt from the requirement to register for GAIN and who volunteer to participate in GAIN.
- (c) AFDC applicants and recipients who are required to register for GAIN and are members of the target population and who do not volunteer to participate in GAIN.
- (d) Recipients of AFDC who are not members of the target population.
- (e) Applicants for AFDC who are not members of the target population.

.633 Existing participants shall receive the highest priority for GAIN participation. If, after halting intake as specified in Section 42-720.632, resources are not sufficient to serve all existing participants, priority for continuing participation shall be extended to groups listed in the following order beginning with highest priority:

- (a) Existing participants who are members of the target population who volunteer for program participation;
- (b) Existing participants who are members of the target population who do not volunteer for program participation;
- (c) Existing participants who are not members of the target population;

.634 The following conditions shall apply to designated priority groups described in Sections 42-720.632 and 42-720.633:

- (a) Existing participants described in Section 42-720.633 would include individuals who are between activities and those who have been deferred in accordance with Section 42-761.4.
- (b) Individuals described in Section 42-720.632(d) and (e) who have received AFDC for one year or more in the preceding two years shall receive higher priority within their respective groups.

(c) For purposes of Sections 42-720.632(a), and 42-720.633(a) and (b), only, a volunteer is an individual who expresses a desire to participate in GAIN regardless of whether the individual is a mandatory GAIN registrant or exempt from registration.

.635 Target population means a group composed of all GAIN-eligible individuals who are:

(a) Applicants for AFDC who have received AFDC (including those under the Refugee Demonstration Project (RDP)) for at least 36 of the 60 months immediately preceding the most recent month for which application has been made.

(b) Recipients of AFDC who have received AFDC (including those under RDP) for at least 36 of the most recent 60 months.

(c) Custodial parents under the age of 24 who:

(1) had little or no work experience in the preceding year, which means that during the preceding 12 months, they had no more than a three-month continuous period of full-time employment compensated at least at the California minimum wage level, or

(2) have not completed a high school education and are not enrolled in high school or in a high school equivalency course of instruction.

(d) Members of a family in which the youngest child is within two years of becoming ineligible for AFDC due to age.

HANDBOOK BEGINS HERE

.634 SDSS will review and respond to a CWD's proposed ~~reduction~~ plan revision to achieve cost reductions within 30 days of receipt of the plan.

.6341 (Continued)

.6342 SDSS may approve the CWD's proposed ~~reduction~~ plan revision.

HANDBOOK ENDS HERE

1a) The CWD's approved reduction plan shall remain in effect for no longer than the duration of the fiscal year in which the plan is approved.

1b) Except as provided in sections 42-720.66 and 167, persons identified as excluded shall be excluded from program participation throughout the fiscal year even if their exclusion status changes.

HANDBOOK BEGINS HERE

- .65 1653 If SDSS does not take action in accordance with 1651 or 1652, Section 42-720.64 SDSS will continue funding approved program activities and will work with the CWD to develop a satisfactory plan of action for providing services in the original county plan or for submitting a new revised reduction plan revision.

HANDBOOK ENDS HERE

- .66 In the event funds become available, the CWD must halt its reduction process and resume services in accordance with the procedures established under section 42-720.651a) below priority order for services specified in Sections 42-720.632 and .633.

- .661 The CWD reduction plan revision to achieve cost reduction must shall describe:

1a) The methodology to be used to resume services to individuals excluded or targeted for exclusion under the reduction plan/ and.

1b) The ~~re-entry~~ methodology to be used at the end of the reduction period for those individuals who were excluded from program participation during the prior fiscal year.

- 167 The CWD shall serve excluded individuals who express a desire to participate in the program if the following conditions are met:

1a) Participation of these excluded individuals would not interrupt services to individuals already participating in the program.

1b) THE INDIVIDUALS DESIRING TO PARTICIPATE ARE NOT APPLICANTS OR VOLUNTEER REGISTRANTS/

1b7) NOTWITHSTANDING THE PROVISIONS OF 42+720/87(b)/ INDIVIDUALS IN THE FOLLOWING GROUPS/ WHO ARE OR WOULD BE MANDATORY REGISTRANTS/ SHALL BE GIVEN FIRST CONSIDERATION FOR SERVICES/

1a) RECIPIENTS WHO HAVE RECEIVED AID FOR 30 OF 60 PRECEDING MONTHS/

1b) APPLICANTS WHO HAVE RECEIVED AID FOR 30 OF 60 MONTHS PRECEDING THE LAST DATE OF APPLICATION/

1c) PARENTS UNDER 24 YEARS OF AGE/

11) WITHOUT A HIGH SCHOOL DIPLOMA AND/ AT THE TIME OF APPLICATION FOR AID TO FAMILIES WITH DEPENDENT CHILDREN/ ARE NOT ENROLLED IN HIGH SCHOOL (OR HIGH SCHOOL EQUIVALENCY PROGRAM)/ OR

12) HAVING LITTLE OR NO WORK EXPERIENCE IN THE PRECEDING YEAR/

1d) AFDC ASSISTANCE UNITS IN WHICH THE YOUNGEST CHILD IS WITHIN TWO YEARS OF ELIGIBILITY FOR AID/

.7 (Continued)

Authority Cited: Sections 10553 and 10554 Welfare and Institutions Code.

Reference: Sections 11322.2(b) and 11322.4, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.1 and 250.31(a).

Amend Section 42-730.1 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES

42-730

.1 (Continued)

- .11 Each CWD shall, in providing job, training, and education services to participants, provide services to each participant which will best meet his/her needs. Counties shall work with local training and education providers, including service delivery areas, community college districts and local school districts, to identify existing resources and, if necessary, to create training and education opportunities that meet the needs of teenage parents who have obtained a high school diploma or its equivalent and who are required to participate, or who participate voluntarily.

.12 (Continued)

.13 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11330.7, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-730.2 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES
(Continued)

42-730

.2 Job Services shall include: (Continued)

.21 (Continued)

.22 (Continued)

.23 (Continued)

.24 (Continued)

.25 (Continued)

.26 (Continued)

127 Time Limitation on Job Search

1271 Participation in job search activities shall not exceed eight weeks in any 12-consecutive-month period except that an additional eight weeks of job search activities shall be allowed if it is required in conjunction with other educational/ training or employment activities.

1272 The first such 12-consecutive-month period shall begin when the individual first participates in a job search activity after entering GAIN.

1273 The second and subsequent 12-consecutive-month periods shall begin immediately following the close of the previous 12-consecutive-month period.

.27 Subject to the GAIN Program participant flow process as described in Sections 42-771 through 774, participation in job search activity shall be limited as follows:

.271 Counties may require applicants for AFDC to begin job search activity prior to the determination of eligibility for aid during an initial eight-week period beginning with the date of application for aid.

(a) Determination of eligibility for aid shall be the date of authorization of payment as defined in Section 44-317.121.

.272 Counties may require recipients of AFDC to participate in job search activity for up to 40 days in any period of 12 consecutive months.

(a) Any number of hours of job search performed in a calendar day shall count as one day toward the 40-day limit.

.273 Counties shall track the 40-day job search time limitation specified in Section 42-730.272 as follows:

(a) The first 12-consecutive-month period shall begin when the individual first participates in a GAIN job search activity following the close of the initial eight-consecutive-week period.

(b) The second and subsequent 12-consecutive-month periods shall begin immediately following the close of the previous 12-consecutive-month period.

(c) The 12-consecutive-month period shall be continuous unless the individual goes off aid and returns to the GAIN Program as an applicant. Periods of nonparticipation, including exemption or deferral, shall not interrupt the 12-consecutive-month period.

HANDBOOK BEGINS HERE

(d) Example 1: A person applies for AFDC on July 2, is determined to be a mandatory GAIN participant, and is referred to GAIN appraisal. Based on appraisal results, she attends Job Club July 9 - July 27. Eligibility for aid is established on August 1, prior to attendance in Job Club. The 12-consecutive-month period for this case begins upon the first instance of job search activity occurring after August 27, the close of the initial eight-consecutive-week period.

Example 2: Same facts as example 1, except she begins Job Club on August 3, two days after eligibility for aid was established (August 1). The 12-consecutive-month period begins on August 3, because it is when the individual first participates in job search following the close of the initial eight week period.

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.274 Counties shall not require any individual to participate in job search activity in excess of the limits specified in Sections 42-730.271 and .272 except as part of a CWD approved education, training or employment activity as follows:

- (a) During a PREP assignment; or
- (b) During the 90-day job search services period following successful completion of an assigned activity; or
- (c) During a CWD approved education or training activity where job search services are part of the provider's education or training curriculum.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11322.6(f), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.60(c) and (d).

Amend Section 42-730.3 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES
(Continued)

42-730

.3 (Continued)

.31 (Continued)

.32 (Continued)

.323 (Continued)

.324 (Continued)

.325 (Continued)

.326 At any time during a participant's PREP assignment, he/she may request job services as specified in Section .2 above.

(a) (Continued)

(b) (Continued)

(c) Job search services during the PREP assignment shall not be subject to the 40-day time limitation specified in Section 42-730.272.

.327 (Continued)

.328 (Continued)

.329 (Continued)

.33 (Continued)

.34 (Continued)

.35 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 250.60(d) and Welfare and Institutions Code Section 11322.6(f)(2), AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-730.418 to read:

42-730 GAIN JOB, TRAINING AND EDUCATION SERVICES

42-730

.4 Grant Diversion

.41 (Continued)

.417 (Continued)

.418 An assignment funded by grant diversion shall not be created as the result of, nor shall result in, the filling of an established unfilled position with a GAIN participant.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11322.8(h)(6), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.62(b)(2).

Amend Section 42-730.5 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES
(Continued)

42-730

.5 Education services shall include: (Continued)

.51 Adult Basic Education

.511 (Continued)

.52 (Continued)

.53 (Continued)

.54 Utilization of ~~a self-initiated educational program~~ of an educational program entered into as a result of the employment plan shall not exceed two academic years.

.55 Participants in educational services specified in Section 42-730.51 and .53 shall be provided a minimum of 10 hours per week of instruction, if available, during each week that participation is required.

.551 The CWD shall notify SDSS whenever this minimum level of instruction cannot be provided. This notification shall identify the school or community college district, and the reasons why that school or college is unable to provide the minimum number of hours of instruction.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-740.1 to read:

42-740 CONTRACTS/AGREEMENTS FOR GAIN JOB, TRAINING AND 42-740
EDUCATION SERVICES

.1 Contracts/agreements between the CWD and providers of job, training or education services, including employers providing PREP, shall include specific criteria as follows:

.11 (Continued)

.12 (Continued)

.121 (Continued)

.122 (Continued)

.13 (Continued)

.14 Contracts shall specify the criteria for successful participant completion of the job, training, or education program, which shall be based on the contractor's normal standard of attendance or performance. These criteria shall include a written provider-developed standard, containing quantitative and qualitative measures, which determine if a participant is making satisfactory progress. Participants shall be informed of the progress criteria at the beginning of their activity by either the CWD or the contractor.

(a) Quantitative measures define reasonable time limits for completing an activity.

(b) Qualitative measures provide an assessment of the degree of success a participant is experiencing in his/her GAIN activity, and can include competency or proficiency attainment, or grade point average.

.141 The requirement specified in Section 42-740.14 shall be considered met if the contractor adheres to any applicable statewide progress standard established by SDSS.

1412 (Continued)

.15 (Continued)

- .16 Contracts for on-the-job training, excluding those funded by grant diversion, shall specify that payments to an employer for on-the-job training shall not exceed an average of 50 percent of the wages paid by the employer to the participant during the period of such training.
- .17 Contracts for on-the-job training, excluding those funded by grant diversion, shall specify that a participant in on-the-job training shall be compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees but in no event less than the higher of federal or state minimum wage.
- .18 Contracts involving reimbursement for GAIN services shall contain a written certification by the provider that the services being provided would not otherwise be available to GAIN registrants free of charge in the absence of available GAIN funding.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11322.8(a) and 11328.6(a), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; 45 CFR 250.1, 45 CFR 250.61(b) and (c), and 45 CFR 250.72(c) and (d).

Amend Section 42-740.2 to read:

42-740 CONTRACTS/AGREEMENTS FOR GAIN JOB, TRAINING
AND EDUCATION SERVICES

42-740

.2 (Continued)

.21 (Continued)

.22 (Continued)

.23 The CWD shall be permitted to enter into contracts for educational services without having to adhere to the contracting requirements of Section 42-740.21, when the CWD is unable to obtain educational services due to the absence of an available adult education program or the small number of GAIN referrals. Utilization of this exemption shall require prior review and approval by SDSS.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11328.8(c), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Sections 42-750.1; amend and relocate existing .2 to .3; and adopt new .2 to read:

42-750 SUPPORTIVE SERVICES

42-750

- .1 Supportive services shall be provided to GAIN registrants to enable them to participate in GAIN activities or to accept employment opportunities. Child care supportive services shall also be provided for children of Indian Tribal JOBS Program participants. As specified in Section 42-782.1(g) or 42-783.1(k), participation shall not be required if the needed services are not available, not arranged, or are insufficient to meet the participant's needs.
- .11 At a minimum, these services shall include child care referrals and payments, transportation costs, ancillary expenses, and personal counseling except as otherwise specified for individuals in approved self-initiated programs as specified in Section 42-750.54. In the case of Indian Tribal JOBS Program participants, counties shall be responsible only for the provision of child care services.
- .2 Child care services shall be available to every GAIN participant with a child ~~under 12 years of age who has indicated the need in their basic or amended contract/~~ who meets one condition in each of Sections 42-750.21 and .22 below.
- .21 The child:
- (a) Is in the AFDC assistance unit; or
 - (b) Receives benefits under federal foster care; or
 - (c) Receives benefits under Supplemental Security Income/State Supplementary Payment (SSI/SSP) program.
- .22 The child is:
- (a) Under the age of 13; or
 - (b) Physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist or receipt of SSI/SSP and meets the age requirements under the AFDC program, as specified in Section 42-100; or

(c) Under court supervision as specified in Welfare and Institutions Code Section 601 or 602 and meets the age requirement under the AFDC program, as specified in Section 42-100.

123 THE CWD SHALL ensure that there is a mechanism for collecting fees from participants receiving BAIN child care subsidies in accordance with the most recent version of the SDE Family Fee Schedule.

HANDBOOK BEGINS HERE

No fee is charged if a participant's family income, including the AFDC grant, is less than 50 percent of the annually adjusted state median income.

HANDBOOK ENDS HERE

1231 The fees collected by the CWD, or agency contracting with the CWD, shall be used to expand child care services or resources.

.23 (Continued)

.231 (Continued)

.2311 (Continued)

.2312 (Continued)

.2313 If the CWD or a contractor pays for child care services which are exempt from licensure with the exception of extended day care on a school site operated by school employees, all of the following information about the care provider shall be on file with the CWD, or agency contracting with the CWD, and shall be made available to the participant:

(a) through (f) (Continued)

(g) In addition, for children of Indian Tribal JOBS Program participants, that a child care provider located on the Indian reservation is in compliance with applicable standards of Tribal law if such requirements exist.

.232 (Continued)

.2321 (Continued)

.2322 (Continued)

.2323 Include in the participant's case file ~~contracts referred to in sections 42-771 through 42-774~~ the following information in relation to child care services provided in the GAIN program:

- (a) The name, birthdate, and sex of each child for whom care is to be provided.
- (b) The types of child care to be provided, including care in the child's home, family day care, or center-based care.
- (c) The scheduled hours of care per week.
- (d) The beginning and anticipated ending dates of care, based on the participant's training program.
- (e) The name and address of the child care provider.
- (f) The rate of pay for child care services.
- (g) Provisions for payment during temporary absences of the child or provider. (See .2335 below.)

.2324 ~~An amendment to the participant contract shall not be required in instances where the only change relates to child care arrangements. However, the basic participant contract shall specify that the participant shall notify the CWD of any such changes in child care arrangements including changes in providers (see Section 42-750.82). This information These changes shall be included in the participant's case file.~~

.233 (Continued)

.2331 GAIN funds may be used to pay for child care services arranged by the participant, providing those costs do not exceed regional market rates as specified in .2333 below, and they meet the standards set forth in .231 above.

.Z332 (Continued)

- .Z333 Participants shall be allowed to choose licensed or exempt child care, and the cost shall be reimbursed up to the regional market rate in accordance with regional market rates provided to counties by SDSS.

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- (a) Regional market rates ~~shall~~ will be determined ~~annually~~ by SDSS in accordance with resource and referral programs provided for under Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code, and the Alternative Payment program provided for under Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code.
- (b) The regional market rate means care costing no more than 1.5 standard deviations above the mean market cost of care for that region.
 - (1) The mean market cost for care in a region will ~~shall~~ be determined based on a statistically valid survey of the rates established by child care providers for private clients.
 - (A) The regional market rate ~~shall~~ will be updated no less than every two years with recent survey data.

HANDBOOK ENDS HERE

- (c) In cases where the child care provided is in a region where there are not more than two child care providers of the type needed by the participant, counties shall pay the actual cost for child care.

.Z334 (Continued)

.2335 GAIN funding will be available to pay for child care services when the child is temporarily absent from care, if it is agreed to pursuant to .2323(g) above. Payment may be made for temporary absences only for the following verified reasons: (Continued)

.34 Counties shall issue payments for child care costs within the following time frames:

.341 For advances, within seven calendar days after CWD approval for an advance payment has been made.

.342 For reimbursements, within 20 calendar days after receipt of all documents necessary to verify those expenses.

.35 No reimbursements shall be made for child care services when care is provided by the child's parents, legal guardians, or members of the assistance unit, including, but not limited to, essential persons.

.36 When there is a change in provider without prior notification to the CWD as specified in Section 42-750.82, payments for child care services shall be subject to the following conditions and limitations:

.361 If the new provider meets regulatory criteria under Section 42-750.31 and the change was due to an emergency or exceptional situation as defined in 42-750.821, the CWD shall approve the new provider effective the date services began, even if a payment to the prior authorized provider will also be made for the transitional time period.

.362 If the new provider meets regulatory criteria under Section 42-750.31 but the change is not due to an emergency or exceptional situation, the CWD shall approve the new provider effective with the end of the prior authorized provider's billing cycle, in order to avoid duplicate payments during the transitional time period.

.363 The provisions of Section 42-750.362 shall only apply when the prior authorized provider's contractual terms require full payment.

.37 Child care may be paid for a period not to exceed one month, where child care arrangements would otherwise be lost and an approved GAIN activity is scheduled to begin within that period.

.38 Participants in an OJT assignment who lose eligibility for AFDC due to earned income, hours worked, or loss of income disregards, shall be eligible to receive supportive services in accordance with Section 42-750 for the duration of participation in the assignment.

.381 The CWD shall reduce the available number of months of Transitional Child Care, as defined in Section 47-120, by the number of months of child care provided during the OJT assignment pursuant to Section 42-750.38.

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If the participant would have been eligible for Transitional Child Care (TCC) as defined in Section 47-120 at the time that he/she lost eligibility for AFDC as specified in Section 42-750.38, he/she is eligible to receive TCC for the number of months left in the 12-month TCC eligibility period following the end of the OJT assignment.

For example, an individual who goes into OJT loses eligibility for AFDC in January. The OJT continues until April during which time the individual receives child care as a participant. If the individual would have been eligible for TCC in February, the individual is potentially eligible for the remaining nine months of TCC (from May to January) if he/she enters unsubsidized employment at the end of the OJT assignment.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.6(e)(5), 11322.2(a), 11323.2, 11323.4(c) and 11323.6(d)(2), (e)(2) and (f), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR Sections 250.61(e) and (f), 250.95(b), 255.1(e)(1) and (4), 255.2(a), (d) and (h) and 255.4(a)(2)(iii), (c)(2), (f)(2) and (i)(1).

Renumber existing Sections 42-750.3, .4 and .5 and amend to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

- .74 Reasonable transportation costs shall be paid for every participant to and from his or her GAIN assignment, including transportation to and from the child care provider, and transportation for children to and from child care.
- .741 Regional market rates for transportation shall be determined as follows:
- .7411 The least costly form of public transportation including CWD provided transportation that would not preclude participation in GAIN as specified in Section 42-783.1(b).
- .7412 If there is no public transportation available which meets the requirements of .7411 above, participants may use their own vehicles, and shall be reimbursed at a rate used to reimburse CWD employees for the use of privately-owned vehicles.
- .7413 Parking for GAIN participants shall be reimbursed at actual cost. Participants must submit receipts for this purpose, except in cases where parking meters are used.
- .7414 Reimbursement to participants who choose to use their own vehicles when public transportation is available shall not exceed the rate specified in .7411 above.
- .7415 The CWD shall submit as part of their county plan, an alternative for areas in which there is no public transportation available, and where a per-mile reimbursement rate would result in excessive costs.
- .45 Ancillary expenses shall be paid when necessary up to a maximum of \$450 per participant. These shall include books, tools, clothing, fees, and other necessary costs of a work or training assignment.
- .451 The maximum in .45 above may only be exceeded on an exception basis where the CWD determines that expenses in excess of the maximum are reasonable and necessary for participation.

- 1/8 .52 A person who has personal or family problems that are jeopardizing the successful outcome of the employment plan entered into pursuant to Section 42-773 shall, to the extent available, receive necessary counseling or therapy to help him or her and his or her family adjust to his or her job training assignment.
- .513 The CWD shall specify the method(s) that it will use to provide these services in its initial county plan and annual updates.
- .54 Participants who are in approved self-initiated programs shall not be reimbursed for ancillary expenses.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.2(a)(5)(C)(i), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990 and 45 CFR 250.48(a)(3).

Amend Section 42-750.6 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

- .6 Payments for supportive services shall be advanced to the participant whenever necessary and desired by the participant, so that the participant need not use his or her funds to pay for these services.

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The CWD should minimize the need to make advance payments to participants by paying for services directly. ~~Whenever necessary or desired/ The CWD should seek recoupment of any unused portion of an advanced payment whenever possible/~~

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- .61 ~~Payments for supportive services/ including reimbursement to licensed child care providers/ shall be governed by regional market rates/ An unused portion of an advance payment for supportive services is that amount of an advanced payment received which is not subsequently supported by proof of costs.~~
- .62 The unused portion of an advance payment shall be collected from the next advance payment or reimbursement of the supportive service following receipt of proof of costs.
- .621 Any adjustment made to subsequent supportive services payments shall be made from the same type of supportive service for which the advance was provided.

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- (a) For example: The unused portion of an advance for transportation expenses must be adjusted from a subsequent transportation payment and not from a subsequent child care payment.

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- .622 The CWD shall notify the participant of any adjustment made to a supportive services payment, as specified in Section 42-750.811(c).

.623 If upon receipt of the notice specified in Section 42-750.612, the participant indicates that the collection will result in disruption of child care arrangements, preclude participation in the program or prevent employment, the county shall:

(a) Not collect the unused portion of the advance; and

(b) Follow the overpayment deferral procedures specified in Section 42-751.32.

.624 Except as specified in Section 42-750.623, if the county is unable to collect in part or in full, the unused portion of an advance payment following receipt of proof of costs, the county shall collect the remaining portion using the appropriate overpayment recovery procedures specified in Section 42-751.3, .4 and .5.

.625 If the county does not collect the unused portion of an advance as specified in Sections 42-750.623 and .624, the county shall determine whether continued use of advances is appropriate and shall discuss with the participant alternate methods of payment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323.4(b), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990 and 45 CFR 255.4(j).

Adopt Section 42-750.8 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.8 Supportive Services Notice Requirements

.81- Participants shall be notified of specific arrangements for authorized supportive services through an appropriate Notice of Action (NOA) which shall be issued pursuant to the procedures specified in MPP Division 22.

.811 NOAs shall be issued to GAIN participants for the following types of supportive services actions and changes:

(a) Approval of supportive services and the level and method of payment;

(1) The CWD shall inform participants who receive an advance payment that the unused portion of the advance will be collected as specified in Section 42-750.6.

(2) The CWD shall inform participants who receive advance payments that receipt of subsequent advance payments is contingent upon CWD receipt of proof of costs incurred no later than the 10th day of the month following the month for which the advance payment was made.

(b) Denial of requests by GAIN participants for GAIN supportive services arrangements or payments;

(c) Changes to existing supportive services payments and arrangements;

(d) Collection of supportive services overpayments from GAIN participants pursuant to Section 42-751;

(e) Termination of supportive services arrangements or payments.

.812 NOAs are not required for the following types of supportive services actions:

- (a) Approval of supportive services for one-time, short-term activities. Short-term activities include orientation/appraisal and school field trips.
- (b) Approval of payments for child care for temporary, substitute providers. This includes short-term care for sick children.
- (c) Approval of payments which are equal to the amount claimed by the GAIN participant or the service provider.

.82 The CWD shall inform participants of the requirement to provide prior notification to the CWD of changes in supportive services arrangements at least ten calendar days before an anticipated change, except in emergency or exceptional situations.

.821 Emergency or exceptional situations shall include, but are not limited to suspected child abuse, provider's arrest, and damage to the facility.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(1).

Adopt Section 42-750.9 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.9 Treatment of Financial Aid

- .91 The CWD shall consider the availability of financial aid received by the participant in the form of educational grants, scholarships and awards when determining the need for GAIN supportive services payments.
- .92 The CWD shall not deny or reduce GAIN supportive services if the participant indicates that the financial aid is not available to meet supportive services needs allowable under Section 42-750.
- .93 The CWD shall document all determinations regarding consideration of a participant's educational grants, scholarships and awards in the case file.
- .94 The CWD shall attempt to enter into written agreements with the financial aid office at appropriate educational institutions providing GAIN services in order to avoid duplication of supportive services payments to GAIN participants.
- .941 Any agreement between the CWD and the institution shall include, but not be limited to, the following:
- (a) A description of the supportive services to be provided by each party.
 - (b) A provision for amendment and modification as necessary.
 - (c) A provision that supportive services needs will be evaluated on a case-by-case basis.

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- .942 For example: The local Community College has an agreement with the CWD to provide GAIN educational services. The financial aid agreement specifies that the CWD will provide child care necessary to participate in GAIN and that the community college will develop GAIN participant student budgets to meet the costs of transportation and books.

A GAIN participant assigned to attend the Community College indicates that she does not need GAIN to pay for transportation or ancillary expenses because her financial aid covers these expenses. After three months in GAIN, her car needs expensive repairs that deplete her financial aid, and she requests a bus pass from GAIN to enable her to get to school. The CWD provides the bus pass.

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.95 Educational loans or work study program awards shall be excluded from consideration when determining supportive services needs.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323.4(d), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Adopt Section 42-751.1 through .6 to read:

42-751 UNDERPAYMENTS AND OVERPAYMENTS OF SUPPORTIVE SERVICES

42-751

.1 Definitions

.11 Underpayments occur when it has been determined by the county that supportive service payments made to the participant, or the value of services provided on behalf of the participant, are less than those to which he/she is entitled as specified in Section 42-750.

.111 Action to correct underpayments shall be taken within 20 calendar days from the date the CWD determines that an underpayment exists.

.12 Overpayments occur when it has been determined by the CWD that supportive services payments made to the participant, or the value of services provided on behalf of the participant, exceed those to which he/she is entitled as specified in Section 42-750.

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An overpayment may be all or a portion of a supportive services payment.

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.121 The amount subject to collection procedures specified in Section 42-751.2, includes:

(a) Payments provided for periods during which the participant is absent from GAIN activities when:

(1) The absence is in excess of ten percent of the required monthly hours as specified in Section 42-782.2 or the provider's allowable absence standards; and

(2) The absence is without good cause according to those reasons specified in Section 42-782.1.

(b) Uncollected unused advance payments as defined in Sections 42-750.623 and .624.

.13 Overpayments are not considered to have occurred:

- .131 During absences of the child(ren) from child care when the child care arrangements would be lost and the absence is a result of verified reasons as specified in Sections 42-750.335(a) through (e) and 42-750.37.
- .132 During absences of the participant from GAIN activities that are for reasons that meet the good cause criteria as specified in Section 42-782.1.
- .133 During lapses in AFDC eligibility for up to one month due to late CA7 reporting as specified in Section 40-181.221.
- .134 During lapses in AFDC eligibility due to AFDC administrative error or for less than a full month.

.2 General Criteria

- .21 The CWD shall take all reasonable steps necessary to promptly correct and collect any overpayment that is known to the county.
 - .211 The CWD shall refer cases of suspected fraud to the county Special Investigative Unit as specified in MPP Section 20-005.
 - .212 The CWD shall attempt recovery efforts in all cases of current AFDC recipients, including current and former GAIN participants.
 - .213 The CWD shall attempt recovery efforts in all cases of former AFDC recipients except as specified in Section 42-751.5.
- .22 The county shall recover supportive services overpayments from the overpaid individual or may collect from:
 - .221 Any adult member of the assistance unit that was overpaid; or
 - .222 Any adult who is a former member of an assistance unit that was overpaid; or
 - .223 Any family which contains an individual who was a member of a previously overpaid assistance unit.

.23 When the county has determined that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery.

.24 Counties shall be allowed to use recovery methods as specified in Section 42-751.4 concurrently.

.241 The methods that result in the maximum recovery without interfering with program participation shall be used.

.3 Establishing Repayment Agreements

.31 Except as specified in Section 42-750.623, regarding individuals who have had unused portions of an advance payment deferred from collection, the county shall initiate recovery within 30 calendar days of the date the overpayment is first discovered by notifying the individual in writing that he/she has an overpayment and that he/she must contact the county within ten calendar days of the date the notice is mailed to arrange repayment.

.311 If the participant does not respond to the overpayment notice within ten calendar days of the date the initial notice is mailed, the county shall use the payment adjustment method of recovery as specified in Section 42-751.44 unless:

(a) The county determines that the deferred repayment provisions of Section 42-751.32 apply.

.312 The overpayment notice shall include:

(a) The name of the overpaid person;

(b) The amount owed;

(c) The reason for the claim;

(d) The period of time that the claim covers;

(e) A statement regarding the right of the participant to a State hearing if the participant disagrees with any aspect of the claim;

(f) The reasons repayment may be deferred as specified in Section 42-751.32;

(g) A statement that recovery will occur as specified in Section 42-751.311 if the individual fails to respond within ten calendar days.

.313 The county shall attempt to obtain a signed repayment agreement from the overpaid individual subject to the recovery methods specified in Section 42-751.4 and provide a copy of the agreement to the overpaid individual.

.32 Deferred Repayment

.321 The following provisions for deferred overpayment collection shall be applicable only to current GAIN participants.

(a) The CWD shall defer collection and recovery of any overpayment if the collection would result in disruption of child care arrangements, preclude participation in the program, or prevent employment.

(1) The CWD shall notify the participant when a decision to defer overpayment collection is made.

(2) The CWD shall reevaluate the need for deferring repayment whenever the participant's participation status changes (from one component to the next, deregistration, etc.).

(3) The CWD shall document the expected ending date of the deferred repayment status.

.4 Overpayment Recovery Methods

.41 Balancing

.411 When an individual has both an overpayment and an underpayment, the county may offset one against the other, subject to the provisions specified in Section 42-751.32.

.42 Voluntary Cash Recovery

.421 The county shall accept any voluntary cash payment from an individual to pay any portion of an existing overpayment.

.43 Grant Adjustment

.431 The individual shall be permitted to have supportive services overpayments adjusted from his/her AFDC grant when the individual is receiving AFDC, provided:

(a) The individual chooses this method of recovery; and

(b) The individual agrees with the amount of the AFDC grant adjustment.

.44 Payment Adjustment

.441 The following payment adjustment provisions shall be applicable only to current GAIN participants.

.442 Any recovery of child care overpayments shall only be collected from future child care payments.

.443 Any recovery of transportation and/or ancillary expense overpayments shall only be collected from future transportation and/or ancillary expense payments, respectively.

.444 The maximum recovery from the current payment(s) shall be as follows:

(a) Ten percent of the total payment, for recipient-caused overpayments, unless the individual volunteers to pay a higher percentage.

(b) Five percent of the total payment for overpayments resulting from administrative error, unless the individual volunteers to pay a higher percentage.

.445 When recovery is made in full from a subsequent supportive services payment the participant shall be informed, in writing, according to the provisions in Section 42-750.811.

.446 When the current payment adjustment is not enough to recover the entire overpayment or no claim is received in a given month, then the remaining amount of the overpayment shall be applied to succeeding month(s) and the adjustment process shall be repeated as specified in Sections 42-751.442, .443 and .444.

(a) When any adjustment is made, the county shall notify the participant as specified in Section 42-750.811.

.447 When no subsequent payment(s) are available for an adjustment to be made, because the individual becomes exempt and does not volunteer to participate or loses eligibility for AFDC the county shall attempt to establish or obtain a new repayment agreement as specified in Section 42-751.313.

.448 The county shall notify the participant when a reduction is made to adjust current supportive services as specified in Sections 42-750.811 (c) and (d).

.5 Demand Recovery

.51 The county shall demand, in writing, repayment of any outstanding overpayment amount from:

.511 Any individual who becomes exempt and does not volunteer to participate or loses eligibility for AFDC, unless the individual continues to repay in accordance with a previous repayment agreement or enters into a new repayment agreement as specified in Section 42-751.447.

(a) The provisions of Sections 42-751.51 and .511 do not apply to on-the-job training participants specified in Section 42-750.38.

.512 Any individual who fails to make a cash payment as agreed in a repayment agreement specified in Section 42-751.313, unless the individual enters into a new repayment agreement.

.52 Once the initial demand letter for repayment has been sent, the county shall continue recovery efforts of supportive services overpayments in all cases of fraud, in all cases of current recipients and in all cases of former recipients of AFDC where the overpayment amount would equal or exceed the cost of recovery.

.53 When a participant: 1) loses eligibility for aid; 2) meets the eligibility criteria for the Transitional Child Care (TCC) Program specified in Section 47-120; and 3) there is an uncollected GAIN child care overpayment, the county shall recoup the amount using procedures specified in Section 47-190.

.6 Overpayment Record Maintenance

.61 The county shall maintain a record of the overpayment including all notices and repayment agreements, the repayment dates and amounts recovered.

.62 Once collection of the overpayment is completed, the overpayment records shall be retained in accordance with requirements for records retention of public assistance cases, as specified in MPP Section 23-350.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.4(b) and 11328, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; 45 CFR 205.10, 255.2(h)(1) and 255.4(j); and 54 FR 42234, October 13, 1989.

Amend Section 42-760.1 to read:

42-760 GAIN REGISTRATION

42-760

.1 (Continued)

.11 (Continued)

.12 (Continued)

113 Individuals whose status changes from exempt to nonexempt/

1131 The CWP shall use the exemption criteria listed in MPP 42/631 through 42/641/

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt Section 42-760.8 to read:

42-760 GAIN REGISTRATION (Continued)

42-760

- .8 Any AFDC applicant or recipient who is a member of, and who lives within the designated service area of, any Indian Tribe operating a Job Opportunities and Basic Skills Training (JOBS) Program approved by the federal Department of Health and Human Services under the Family Support Act of 1988 (P.L. 100-485) shall, if required pursuant to a tribe's approved operating plan, participate in the tribal program in place of registration and participation in the GAIN Program. Any county in which there is an approved Indian Tribal JOBS Program shall do all of the following:
- .81 Maintain the confidentiality standards specified in MPP Division 19.
- .82 Refer all AFDC applicants and recipients who are Tribal members to the Tribe's JOBS Program.
- .83 Impose financial sanctions in accordance with Section 42-786.
- .84 Provide child care referral and payments, including transitional child care in accordance with Sections 42-750.2 and .3 and Division 47.
- .85 Enter into any agreements necessary to carry out the activities specified in this Section.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.4(e), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; 45 CFR 250.90, 45 CFR 250.94(a)(2), 45 CFR 250.95(b) and 45 CFR 250.97(f)(7).

Amend Sections 42-761.3 and .4 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

.3 (Continued)

.33 If it has not been determined prior to Appraisal, determine if the registrant should be deferred from participation based upon the criteria specified in Sections 42-761.4 or .5.

.34 (Continued)

.35 (Continued)

.36 (Continued)

.361 The CWD shall determine if the registrant lacks basic literacy or mathematics skills or English language skills by using the appropriate testing instruments provided by SDSS in conjunction with SDE.

(a) This determination shall also be made for registrants who, at the time of the initial appraisal, are enrolled in a program for which the sole purpose is to develop basic literacy or mathematic skills or English language skills, as specified in section 42-772.56.

.362 (Continued)

.363 Registrants who are determined to lack any of these basic educational skills and who appear to be unable to benefit from instruction to remedy these skill deficits, shall be evaluated, as specified in Section 42-772.512, prior to assignment to a component.

.37 Identify the registrant's need for supportive services. (See Section 42-750.)

.371 Subject to the provisions of Section 42-750.2, the CWD shall immediately refer a registrant with a child(ren) under age 12 to the local child care resource and referral agency whether or not the individual currently requires assistance with child care services, if needed or as requested by the registrant.

.372 The CWD shall encourage the registrant to apply for educational and/or vocational training grants, scholarships, and awards for which he/she may be eligible.

.38 Develop and document a preliminary employment goal for the registrant.

.381 (Continued)

.382 (Continued)

1383 For custodial parents described in section 42-772.17 the activities specified in sections 42-761.38, 1381, and 1382 are not required.

.39 (Continued)

.4 All of the following registrants shall have good cause for not participating and shall be deferred from mandatory participation until the CWD determines that the situation precluding participation no longer exists:

(a) A caretaker relative who is enrolled in school for at least 12 units of credit and has a child age three, four or five. An individual who, at the time of the initial appraisal, is enrolled on a full-time basis in a program leading to a degree or certificate.

(1) In order to remain deferred under this section, an individual must continue to make satisfactory progress in that program according to the standards of the provider, and maintain full-time participation in the program. Participation less than full time, but not less than half-time, can meet the requirements of this section if full-time participation is not feasible due to good cause as defined in Section 42-782.1.

- (2) If the individual is attending less than full-time at the time of the initial appraisal but agrees to full-time attendance as soon as possible, the individual shall be considered to be attending on a full-time basis for the interim. Failure to increase attendance to full-time as agreed within the next quarter, semester, or available opportunity not to exceed six months will end the deferral except as provided in Section 42-761.4(a)(1).

(b) through (k) (Continued)

- (1) A 16 or 17 year old custodial parent who is not currently in school and who does not possess a high school diploma, only when any of the following apply:

(1) Supportive services that are needed by the individual are not available.

(2) Intensive case management services as described in Section 42-772.76 are needed by the individual and are not available.

(3) The individual has a special need that directly affects his/her ability to attend school or be successful in earning a high school diploma or equivalent, and that need cannot be met.

(m) (Continued)

~~1~~Y (1) (Continued)

~~1~~~~1~~Y (2) (Continued)

~~1~~~~1~~~~1~~Y (3) (Continued)

- (n) A parent or other adult relative who lacks the necessary child care for a child who meets the criteria in Section 42-750.2 or for a child who meets the criteria of Section 42-750.22 but who does not meet the criteria of Section 42-750.21, and therefore is not eligible for child care paid by GAIN.

(o) An individual who lacks transportation.

(p) An individual who, at the time of the initial appraisal, is attending an education or training program that is not approvable as a GAIN activity or does not meet the requirements of Section 42-761.4(a) may be deferred in order to permit completion of the program semester, quarter or increment of not more than six months.

(1) This deferral shall apply only when the conditions for the deferral in Section 42-761.4(a) cannot be met and the individual wishes to complete a current term of education or training before participating in GAIN.

.41 Deferral determinations for individuals meeting the criteria of Sections 42-761.4(e) and (m) shall be made prior to Appraisal.

.411 Data collection activities specified in Section 42-720.7 and deferral review activities specified in Section 42-761.43 are not required for individuals meeting the criteria of Sections 42-761.4(e) and (m).

.412 (Continued)

.413 (Continued)

.4131 (Continued)

.414 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.2(a), 11323.4(d)(1), 11323.6(d)(1), 11325, 11325.2(c)(7) and 11330.3, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; 45 CFR 250.1, 45 CFR 250.41(a)(1)(i) and (b); 250.48(a) and 255.2(a); and 54 FR 42184, October 13, 1989.

Amend Section 42-771.5 to read:

42-771 GAIN PARTICIPANT CONTRACTS (Continued)

42-771

.4 (Continued)

- .5 The contract shall describe in detail the types of supportive services generally available to GAIN participants and shall provide for state that needed supportive services/ shall be provided to the participant. as needed to participate in the required component/ (See Section 42-750.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.2(c)(1)(B), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990 and 45 CFR 255.2(h).

Amend Section 42-772.4 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS
(Continued)

42-772

- .4 For any participant who, is at the time of the initial appraisal, is enrolled in, or attending in good standing, a self-initiated vocational training program of limited duration or an educational program which is expected to will likely lead to unsubsidized employment in an occupation in demand, the basic contract shall provide for up to two calendar years of continued participation in the program under the conditions and limitations in this section. The program shall be consistent with the participant's preliminary employment goal. The CWD shall notify, in writing, the individual if the self-initiated program or extension to the program is disapproved and the reason(s) for that disapproval.

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Individuals whose self-initiated programs are not approved as a GAIN activity may qualify for a deferral under Section 42-761.4(a).

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- .41 Participation as a GAIN participant, however, shall be limited to a total of two academic years. In order to be approved, the individual's program shall be scheduled to be completed within the two-year period from the date the basic contract is signed.
- .411 If, at the end of the two-year period, the participant has not completed his/her program, the period for completion may be extended one time only, for up to six months, due to any of the following circumstances, when there is a reasonable expectation that the program can be completed within six months:
- (a) The individual's basic skills requirements required more class time than was estimated at the commencement of the program.
 - (b) The school or college did not offer required classes in a sequence that permitted completion of the self-initiated program within the prescribed time period.

- (c) The individual had a personal or family crisis that resulted in the inability of that individual to complete his or her self-initiated program without an additional period of attendance, not to exceed six months.

.412 An individual whose self-initiated program, approved under the provisions of this section, is interrupted for good cause as defined in Section 42-782.1 which prevents participation in the education or training program, shall be permitted to resume participation in the same program as follows:

- (a) The individual shall have maintained good standing in the program while participating.
- (b) The CWD shall adjust the completion date of the program, to account for the time of absence, to allow the individual a cumulative total of two years to complete the program.
- (c) If the break in participation was for more than one year, the individual may resume the program if the CWD determines that the previously approved self-initiated education or training program meets all other criteria of Section 42-772.4 at the time it is resumed. The completion date shall be adjusted as provided in Section 42-772.412(b).

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- (1) The following examples demonstrate the application of these provisions:

- (A) Client A's self-initiated program was approved and she signed her participant contract on January 1, year 1. Her scheduled completion date was December 31, year 2. In October, year 1, her daughter became very ill. Client A had to drop her classes to take care of her daughter. On January 1, year 2, Client A reenrolled in her program in

good standing. Her completion date was adjusted to April 1, year 3, to account for her three month absence. Client A was concerned that this would be midsemester. She was informed that she could apply for an extension, if necessary, at that time.

(B) Client B's self-initiated program was approved and he signed his participant contract on August 1, year 1. At full-time, the school estimated his program would be completed no later than June 30, year 3. Client B's wife subsequently waived her deferral for GAIN in order to complete her GED. To help out at home, Client B reduced his classload to five units on January 1, year 2. He continued in school, requested and received a deferral from GAIN, and his wife was registered as the mandatory participant for the family. His wife became pregnant in July, year 2 and qualified for deferral/exemption. Client B then returned to mandatory GAIN participant status and enrolled for full-time coursework in September, year 2. His GAIN case manager did not adjust the completion date for his SIP because the break in GAIN participation was not for a reason that prevented him from participating in his education program. He must complete his program by June 30, year 3, the original completion date.

(C) Client C signed her participant contract for her approved self-initiated program October 10, year 1 to be a laboratory technician. In June, year 2, Client C had an accident that prevented her from participating in her program until September, year 3. At that time, her GAIN worker reviewed the program to see if it still met the SIP approval criteria. The recent closure of a major weapons industry plant had forced many experienced laboratory technicians into the labor market. The worker informed Client C that there were no longer jobs in demand in her goal occupation; in fact, the largest employer for these occupations had gone out of business. Client C, unable to prove she could get employed or that there was a demand for her occupational goal, completed her semester of school under a deferral. Subsequently, she was assigned to participate in Job Club. If she had been able to produce proof of her employability at the completion of the program, her adjusted completion date would have been January, year 4, to allow for her time of absence.

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.42 Vocational and educational programs which ~~are expected~~ will likely lead to unsubsidized employment in an occupation in demand, shall be those which will provide the participant with the training or education required to obtain employment in ~~an occupational field~~ which is the goal occupation identified under the provisions of Section 42-761.38.

.421 ~~One that~~ The goal occupation shall be considered in demand if it is an occupational field that has been identified as in demand in the county's labor market needs assessment.

or

.422 One for which the participant can demonstrate a need exists/ If a participant and the CWD do not agree that the participant's goal occupation is likely to lead to unsubsidized employment, or the self-initiated program is denied because the occupation is not in demand, the participant shall be permitted to continue pursuing the goal if she or he can provide sufficient documentation to demonstrate that the local labor market provides reasonable opportunities to work in the goal occupation. This documentation may include, but is not limited to:

- (a) A signed statement that an employer will give the person a job in that occupation upon program completion.
- (b) A list of three employers who have frequent openings in the occupation pursued by the participant, at a skill level that can be achieved by the participant through skills training components offered by the program.
- (c) A statement from a school district, community college district, service delivery area, or an Employment Development Department office identifying the occupation as a demand occupation in the local labor market.

.43 The individual must need the self-initiated training or education program in order to become employable in unsubsidized employment.

.431 An individual who meets either of the following criteria shall be deemed employable and not eligible for SIP approval:

- (a) Possesses a baccalaureate degree.
- (b) Has the education or job skills necessary to obtain unsubsidized employment in an occupation in demand that will provide the individual with an income equal to two times the federal poverty level for the appropriate family size.

.432 A county shall not deem an individual employable under the provisions of Section 42-772.431(b) if the person is able to demonstrate that, due to compelling personal circumstances, employment in the previous occupation is not realistic. Such circumstances include, but are not limited to:

(a) A work-related disability.

(b) Inability to obtain required union membership.

(c) Hours of employment that cause a severe hardship on the individual's family.

.44 In order to continue in the training or education program, the individual shall be attending full-time according to the standards of the provider.

.441 If the individual is attending less than full-time at the time of the initial appraisal but she or he agrees to full-time attendance as soon as possible, the individual shall be considered to be attending on a full-time basis for the interim. The interim period is limited to a semester, quarter or next available opportunity not to exceed six months.

.442 The individual shall be permitted to participate on less than a full-time basis, but in no case less than half-time if full time attendance is not feasible due to good cause as defined in Section 42-782.1, or if the individual is subject to the 20 hour weekly participation limit specified in Section 42-772.6.

.435 An individual may choose to participate concurrently according to .11, .22 or .33 above, whichever is appropriate.

.446 The basic contract shall provide that if concurrently participation has not occurred as specified in ~~143~~ Section 42-772.45 ~~above~~, the participant shall participate according to Sections 42-772.1, .2, or .3 ~~above~~, whichever is applicable, when the participant completes the program or reaches the two-year limit and exhausts the available extension as specified in Section 42-772.41, whichever occurs first, or when any of the following occur:

.4461 The participant stops participating in the educational or training program.

- .4462 The participant fails or refuses to regularly attend the educational or training program.
- .4463 The participant does not maintain satisfactory progress in the educational or training program.
- .464 The participant fails or refuses without good cause to increase participation in the self-initiated program to full-time.
- .465 The participant fails to participate on at least a half-time basis.
- .467 The participant shall provide documentation from the training or educational provider to the county at least quarterly or at midpoint if the program is for less than three months to verify satisfactory participation, attendance, and progress in the program.
- .4671 The county shall verify the documentation whenever authenticity is in doubt.
- .4672 The county shall rely on the training or educational provider's normal standard of attendance or performance to determine if the participant meets the criteria of satisfactory participation, attendance, and progress.
- .4673 If the participant refuses to furnish the required documentation, the CWD shall consider that he/she is not meeting the criteria. See MPP Section 40-157 if the participant is unable to furnish the required documentation.
- .468 If the CWD determines that the participant had good cause for failing to meet the participation, attendance, or progress standards, based on the criteria specified in Section 42-782.1, and the school allows the participant to continue in the program, the participant is deemed to be making satisfactory progress and participation according to /44 Section 42-772.46 ~~above~~ shall not be required.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 250.48 and Sections 11325.2(c)(5) and 11326.2(b) and (c)(5)(D) and (E), Welfare and Institutions Code AB 312, Chapter _____ Statutes of 1990.

Amend Section 42-772.5 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS

42-772

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 Except as specified in Section 42-772.7, for any participant who lacks basic literacy or mathematics skills, a high school diploma or its equivalent, or English language skills, the basic contract shall provide that the individual participate in either basic skills instruction ~~remedial~~ ~~educational~~, instruction in order to obtain a general educational development (GED) certificate, or instruction in English-as-a-second-language (ESL). For purposes of this section, basic education is defined to include basic skills instruction, GED and ESL.

.51 (Continued)

.511 Participants shall be required to maintain satisfactory progress, according to the SDSS or provider criteria as specified in Section 42-740.14, in their basic education activities. The CWD shall conduct or arrange for an evaluation when a participant is complying with other program requirements as specified in Section 42-781.1, and either of the following occurs:

(a) The participant is determined to not be making satisfactory progress in his/her basic education activity, or

(b) The participant is determined by the education provider to be unable to benefit from this activity due to a suspected or known learning or medical problem.

.512 The purpose of the evaluation required in Section 42-772.511 above shall be to determine whether the participant has the ability to successfully complete his/her assigned activity.

- (a) The participant shall be involved in the decisions made during the evaluation and shall have appeal rights consistent with those provided pursuant to Section 42-774.122.
- (b) This evaluation shall include, but is not limited to, the following activities:

 - (1) Testing to obtain additional information regarding the participant's learning abilities, if determined appropriate by the CWD.
 - (2) Identification of barriers to progress and efforts by the CWD to remove these barriers.
 - (3) Determination of what activity is most appropriate for the participant, including:

 - (A) Reassignment to the participant's previous activity.
 - (B) Referral or re-referral to existing educational programs that meet special needs of the participant.
 - (C) Referral to job club, as provided in Section 42-730.21, if the CWD determines that the participant has the skills needed to obtain unsubsidized employment in the local labor market.
 - (D) Referral to assessment, as specified in Section 42-773.2, or to a rehabilitation assessment, followed by the appropriate post-assessment activity.

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The evaluation is intended to provide a method for determining the appropriate services needed by an individual for long-term success in the labor market. Individuals who are determined to need long periods of classroom instruction in order to achieve basic skills should not be referred to an evaluation if they are making steady, satisfactory progress in attaining the basic skill goal.

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.52 (Continued)

.53 (Continued)

.54 (Continued)

.55 (Continued)

.56 Individuals who, at the time of the initial appraisal, are attending a program for the sole purpose of obtaining basic educational skills described in this section, shall be allowed to continue in that program under the following conditions:

.561 Literacy or educational deficits are identified using appropriate testing instruments specified in Section 42-761.361 or other appraisal results, which can be addressed through their existing educational activity.

.562 The individual provides documentation of attendance and progress as specified in Section 42-772.47 if there is no contract between the educational provider and the CWD.

.563 The individual meets the satisfactory progress provisions specified in Sections 42-772.511 and .512, and proceeds to the next appropriate GAIN activity upon completion of the basic education activity.

.57 Individuals needing basic educational skills as described in this section shall be determined to have obtained these skills based upon exit criteria provided by SDSS in conjunction with SDE. These criteria shall be consistent with appraisal criteria used to determine basic educational skills needs as specified in Section 42-761.361.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.2(c)(6) and (7), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990, and 45 CFR 250.1 and 250.48(b).

Amend Sections 42-772.6 and .7 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS

42-772

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 Except as provided in Sections 42-772.61 and 42-772.71, for any parent or other relative who is personally providing care to a child under age 6 has a child under age three, participation shall not be required for more than 20 hours per week.

.61 (Continued)

.7 For any custodial parent/ under age 20/ who does not possess a high school diploma or its equivalent and who is not exempt, or whose sole reason for exemption would have been having a child under age three, or who volunteers, the individual participant contract shall provide that the individual participate in an educational activity leading to a high school diploma or equivalent/, except as provided for self-initiated participants in Section 42-772.722.

.71 Notwithstanding Section 42-772.6/ These participants shall participate full-time/ as defined by the educational provider and shall not be subject to the 20 hour weekly participation limit of Section 42-772.6.

.72 GAIN participation for these participants is limited to the an education activity leading to a high school diploma or equivalent requirement in Section 42-772.71, except as follows:

.721 For a custodial parent described in Section 42-772.7 who is 18 or 19 years of age and who fails to make satisfactory progress in the education activity to which he/she is assigned, the provisions of Section 42-772.511 and .512 shall apply. If participation in any activity other than an educational activity leading to a high school diploma or equivalent is required as a result of the progress evaluation, such participation shall be subject to the 20 hour weekly participation limit of Section 42-772.6.

Amend Section 42-772.6 and .7 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS

42-772

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 Except as provided in Sections 42-772.61 and 42-772.71, for any parent or other relative who is personally providing care to a child under age 6 ~~has a child who is under five years of age~~, participation shall not be required for more than 20 hours per week.

.61 (Continued)

.7 For any custodial parent/ under age 20/ who does not possess a high school diploma or its equivalent and who is not exempt, or whose sole reason for exemption would have been having a child under age three, or who volunteers, the ~~participant~~ participant contract shall provide that the individual participate in an educational activity leading to a high school diploma or equivalent/, except as provided for self-initiated participants in Section 42-772.722.

.71 ~~Notwithstanding Section 42-772.61/~~ These participants shall participate full-time/ as defined by the educational provider ~~and shall not be subject to the 20 hour weekly participation limit of Section 42-772.6.~~

.72 GAIN participation for these participants is limited to the an education activity leading to a high school diploma or equivalent requirement in Section 42-772.71, except as follows:

.721 For a custodial parent described in Section 42-772.7 who is 18 or 19 years of age and who fails to make satisfactory progress in the education activity to which he/she is assigned, the provisions of Section 42-772.511 and .512 shall apply. If participation in any activity other than an educational activity leading to a high school diploma or equivalent is required as a result of the progress evaluation, such participation shall be subject to the 20 hour weekly participation limit of Section 42-772.6.

.722 For a custodial parent described in Section 42-772.7 who is 18 or 19 years of age and who is enrolled in a self-initiated vocational training or educational program that meets the SIP approval criteria in Section 42-772.4, the participant contract may specify participation in the approved self-initiated program in lieu of the educational activity. Such participation shall be subject to the 20-hour weekly participation limit of Section 42-772.6.

.73 For purposes of Sections 42-772.74 through .78, whenever the term "teenage parent" is used, it means a custodial parent 16 or 17 years of age, who does not possess a high school diploma or its equivalent and who is not exempt, or whose sole reason for exemption would have been having a child under three. The provisions of Sections 42-772.74 through .78 are not required for voluntary participants.

.74 For a teenage parent 16 or 17 years of age, the participant contract shall meet the requirements for the participant contract in Section 42-771 and shall also include all of the following:

.741 A determination of the individual's need for intensive case management services, as specified in Section 42-772.76, and the method of providing needed services.

.742 A detailed education plan written by the local school district.

(a) The involvement of the parent(s) or legal guardian of the teenage parent in the development of the education plan shall be encouraged, as appropriate.

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(b) The education plan will not require any additional activities from the school district beyond those already required when a student who has dropped out of school indicates a desire to resume attendance. The plan will be developed by the school district with the participant in consultation with the County Welfare Department. It will contain the following:

- (1) A description of the education program that the participant will be required to follow, including vocational training and preparation that may be available through local education and training agencies.
- (2) Courses and services that the school district currently offers to students, including child care, child development and parenting education, homemaking, or other consumer education, life skills courses, and counseling and guidance services, as appropriate for each student.

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- .75 GAIN supportive services shall be limited to those that are necessary to enable the teenage parent to complete the education plan in Section 42-772.742 and shall not be available for the participant's use of community health and social services.
- .76 Case management services and counseling shall be provided to teenage parents as needed to assist their participation in GAIN. Parents who began participation in GAIN before the age of 18 may continue to receive these case management and counseling services, as needed, after the age of 18 until they obtain a high school diploma or equivalent, so long as they continue to participate in the GAIN Program.

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- (a) Case management services include the following:
- (1) Designing a realistic GAIN plan that maximizes the ability of each teenage parent to reach his/her goal.
 - (2) Providing referrals to appropriate community services needed to assist the teenage parent's successful return to school.
 - (3) Monitoring each teenage parent's progress and making the necessary changes to improve his/her program.

- (4) Acting as a counselor, colleague, and role model so that each teenage parent has someone to trust and to turn to for advice, guidance, and ideas.
- (5) Providing intensive counseling during all phases of a teenage parent's progress through GAIN.
- (6) Ensuring that each teenage parent understands the consequences of not returning to school as required by GAIN.

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- .761 Case managers assigned to assist teenage parents shall possess an expertise in understanding the education, training, and other social and health service needs of teenage parents, as well as the local programs that provide these services.
- .762 Case managers assigned to assist teenage parents shall be afforded sufficient time to provide the needed education and supportive services.
- .763 Case managers shall make reasonable efforts to contact and counsel teenage parents who they believe are in danger of failing or refusing to comply with program requirements without good cause and shall inform the teenage parent of the consequences of noncompliance. (See Section 42-781.1). Case managers shall make reasonable efforts to secure a face-to-face meeting with the teenage parent before a cause determination is made.
- .77 Counties shall be permitted to contract for the provision of case management services specified in Section 42-772.76. Agencies with which the county may contract shall be limited to public or nonprofit agencies that administer services under the Adolescent Family Life Program (as authorized by Article 3.2 [commencing with Section 309.100] of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), school districts, or other public or nonprofit agencies approved by the department.
- .771 Contracting with an Adolescent Family Life Program shall be deemed to fulfill the case management requirements of Section 42-772.76.

.772 If a county chooses to contract for case management services, the county shall maintain one or more liaison staff members who have expertise in the special needs of teenage parents.

.78 A teenage parent who is required to participate in GAIN, and who fails or refuses to comply with program requirements, shall be subject to the conciliation and sanction provisions of Sections 42-781 and 42-786.

.781 If the teenage parent is not emancipated and is living with his/her parent(s) or legal guardian, the parent(s) or legal guardian shall also be notified of the teenage parent's failure or refusal to comply with program requirements, as specified in Sections 42-781.213, .412 and .812.

.779 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11310(b)(6)(B), (d) and (e), 11330, 11330.1, 11330.2, 11330.4, 11330.5, 11330.6, 11330.8 and 11330.10, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.32(a)(1) and (3)(ii) and 45 CFR 255.2(a) and (c).

Amend Section 42-774.14 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS (Continued)

42-77

.1 (Continued)

- .14 ~~The~~ That needed supportive services: ~~to~~ shall be provided to the participant. ~~by the CWD or contracted supportive service provider/~~ (See Section 42-750.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 42-774.2 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS (Continued)

42-77

.1 (Continued)

- .2 ~~Subject to limits specified in Section 42-730.271~~ Any individual who remains unemployed after meeting the criteria established for successful completion of the assigned training or education services agreed to in .1 above, shall be referred to job search services for a period of 90 days. These job search services may include any of the services under Section 42-730.2, depending on the participant's needs. The contract shall be amended to reflect the assignment to ~~a~~ job search ~~component~~ services, and the provision of supportive services. Job search activities during this 90-day period shall not be subject to the 40-day time limitation specified in Section 42-730.272.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.8(a), Welfare and Institutions Code, and 45 CFR 250.60(d).

Amend Section 42-781.1 to read:

42-781 CAUSE DETERMINATION AND ~~INFORMAL AND FORMAL~~
CONCILIATIONS

42-78

- .1 Before sanctions (Section 42-786) are applied, the CWD shall determine if there is good cause and attempt to resolve the problems when an individual who is required to enter into a participant contract or who volunteers to participate in the program fails or refuses to ~~meet any of the following~~ comply with program requirements. Failing or refusing to comply with program requirements is limited to:
- .11 Failing or refusing to enter into a participant contract.
- .111 (Continued)
- .12 Failing or refusing to participate in any assigned program component activity that was agreed to in the contract.
- .13 Failing or refusing to accept a job offer or a job referral.
- .14 Terminating employment
- .141 This includes an individual who is non-exempt, who becomes employed for 30 or more hours per week after receiving written notice of registration as specified in Section 42-760.4 and who remains on aid. Such individual shall be considered to have failed or refused to comply with program requirements if he/she terminates the employment without good cause.
- .15 Reducing earnings

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 250.34(a), FSA-JOBS-90-3 (Federal Action Transmittal); and Welfare and Institutions Code Section 11327.4, AB 312, Chapter _____, Statutes of 1990.

Reletter existing Sections 42-781.211(e)(i), and (j) to 42-781.211(f)(j) and (k) respectively; and amend Section 42-781.2 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 The CWD shall give the individual an opportunity to ~~explain why~~ demonstrate that he/she refused had good cause for the ~~or failed~~ failure or refusal to meet comply with the program requirements.

.21 The CWD shall send the individual an written appointment notice to meet and discuss the ~~action~~ reason(s) for the failure or refusal. The CWD shall make reasonable efforts to send this notice at least six working days prior to the scheduled interview. The interview and for determination of cause shall be scheduled to occur within ten working days of the discovery of the refusal or failure.

.211 The notice shall contain the following information:

(a) A statement that the interview appointment is to determine if the individual had good cause for not complying with meeting the program requirements.

(b) A description of the program requirement(s) with which ~~that~~ the individual failed or refused to comply ~~meet~~.

(c) A statement that the individual has the right to demonstrate why he/she failed ~~provide an explanation of the refusal or the failure~~ refused to meet comply with program requirements.

(d) The ~~consequences of failing to keep date,~~ time and location of the scheduled interview appointment.

(e) A statement that transportation and child care services are available if needed in order to attend the interview.

~~(f)~~ (f) A listing of what may constitute good cause for failing or refusing to meet comply with program requirements.

- (f) (g) A statement that, after the cause determination has been made, the individual has a the right to a formal conciliation period that shall not exceed 30 calendar days if the CWD finds that the failure or refusal to meet comply with program requirements was without good cause and informal steps to resolve the noncompliance are unsuccessful.
- (g) (h) A proposed conciliation plan which outlines the terms under which the individual may resume program participation and bring the conciliation process to an end. The individual's right to reschedule the cause determination interview once, provided the request for reschedule is made prior to the scheduled interview.
- (h) (i) The individual's right to offer a counter-proposal towards conciliatory resolution. A statement that the individual's failure to either attend the cause determination interview or reschedule this interview shall result in a cause determination in his/her absence, based on available information.
- (i) (j) The names, telephone numbers, and addresses of the local legal services office and welfare rights office, if any or the Coalition of California Welfare Rights Organizations if there are no welfare rights or legal aid offices in the county, which could can assist the individual with the cause determination and with conciliation.
- (j) (k) The consequences of a the individual's failure to resolve the dispute during the by the end of the 30-calendar-day formal conciliation process period.

.212 At the time of the cause determination interview the CWD shall review with the individual his/her rights, duties, and responsibilities as described in Section 42-760.4.

.213 If the individual who fails or refuses to comply with program requirements is an unemancipated 16 or 17 years old custodial parent as described in Section 42-772.73 who lives with his/her parent(s) or legal guardian, the CWD shall also send a notice to the individual's parent(s) or legal guardian.

The parent(s) or legal guardian shall be allowed to attend any meetings between the CWD and the teenage parent that are designed to encourage the noncooperating teenage parent to participate.

.22 If the individual contacts the worker prior to the scheduled interview to request a rescheduling, the ~~interview~~ individual shall be ~~rescheduled~~ permitted one reschedule of the cause determination interview. ~~The number of reschedulings shall not exceed two.~~ This rescheduled interview shall take place within 10 working days of the initially scheduled appointment, unless delayed by extenuating circumstances. ~~The CWD shall be permitted to conduct telephone interviews to accomplish the cause determination.~~

.23 The CWD shall be permitted to conduct telephone interviews to accomplish the cause determination if the CWD determines it is appropriate and the individual agrees.

~~123~~ .24 If the individual does not keep the appointment for the cause determination interview ~~and has not~~ or otherwise contacted the CWD, a cause determination shall be made from available information.

.25 A cause determination shall be made within 20 working days from the date of the discovery of the failure or refusal to comply with program requirements, unless delayed by extenuating circumstances which shall include:

.251 Delay of the initial cause determination interview required in Section 42-781.21 due to insufficient time to issue the notice required in that section at least six working days prior to the scheduled interview.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4(b) and (d) and 11330.10(c), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-781.3 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 If the CWD determines, based on the criteria specified in Section 42-782, that good cause existed for the failure or refusal to ~~meet the~~ comply with program requirements, the county shall notify the individual in writing of this determination and, as necessary:

.31 (Continued)

.32 (Continued)

.33 (Continued)

.34 Determine if temporary deferral is appropriate (Section 42-761.~~34~~).

.35 Determine if exemption is appropriate (Sections 42-789 through 42-799).

~~/33~~ .36 Amend the participant contract as appropriate.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4(b), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-781.4 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 If the CWD determines that no good cause existed for the failure or refusal to ~~meet~~ comply with program requirements, the CWD shall conduct ~~informal~~ conciliation.

.41 ~~Informal conciliation shall consist of offering the individual an opportunity for an interview with the supervisor of the CWD staff person who made the cause determination or other designated individual. The CWD shall be permitted to involve other parties relevant to the individual's noncompliance, such as the individual's trainer or supervisor.~~

The CWD shall schedule an appointment at which the CWD and the individual shall attempt to reach agreement on program participation and resolve any problems that are contributing to the failure or refusal to comply with program requirements. The CWD shall issue a written notice informing the individual of the results of the good cause determination and of the conciliation appointment. The notice shall be issued within five working days of the cause determination, unless delayed by extenuating circumstances. The 30 calendar day conciliation period begins on the date the CWD issues the notice informing the individual of the conciliation appointment.

.411 ~~The purpose of the interview is to redetermine if good cause exists for the failure or refusal to meet requirements and to attempt to resolve the conflict so that the individual will meet the requirements.~~

The notice that begins conciliation shall be issued at least six working days prior to the scheduled appointment and shall contain all of the following:

(a) A statement that the individual has been determined to be without good cause for the failure or refusal to comply with program requirements.

- (b) A description of the program requirement(s) with which the individual failed or refused to comply.
- (c) A statement that the individual has entered into a period of conciliation that shall not exceed 30 calendar days.
- (d) The date, time and location of the scheduled conciliation appointment.
- (e) The individual's right to reschedule the conciliation appointment once.
- (f) A statement that transportation and child care services are available if needed in order to attend the appointment.
- (g) A statement that the purpose of the appointment is to attempt to resolve any problems which have contributed to the noncompliance and to reach agreement on program participation.
- (h) A proposed conciliation plan which outlines the terms under which the individual may begin or resume program participation and bring the conciliation process to an end.
- (i) The individual's right to offer a counter-proposed conciliation plan, which the CWD may approve in whole or in part.
- (j) The names, telephone numbers, and addresses of the local legal services office and welfare rights office, or the Coalition of California Welfare Rights Organizations if there are no welfare rights or legal aid offices in the county, which could assist the individual with conciliation.
- (k) The consequences of the individual's failure to resolve the dispute by the end of the 30-calendar-day conciliation period.

.412 If the individual who fails or refuses to comply with program requirements is an unemancipated 16 or 17 years old custodial parent as described in Section 42-772.73 who lives with his or her parent(s) or legal guardian, the CWD shall also send a notice to the individual's parent(s) or legal guardian.

The parent(s) or legal guardian shall be allowed to attend any meetings between the CWD and the teenage parent that are designed to encourage the noncooperating teenage parent to participate.

.4123 The interview shall be conducted either in person or by telephone. The appointment for conciliation specified in Section 42-781.41 may be held immediately following the cause determination interview specified in Section 42-781.21 if both of the following conditions are met:

(a) Both the individual and the CWD agree to this arrangement; and

(b) The notice required in Section 42-781.41 is issued before the conciliation appointment begins.

.42 If the individual contacts the worker to request a rescheduling, the individual shall be granted one reschedule of the conciliation appointment.

.43 The CWD shall be permitted to conduct the conciliation appointment by telephone if the CWD determines it is appropriate and the individual agrees.

.44 The CWD shall attempt to contact by telephone those individuals who fail to attend the conciliation appointment to discuss those issues which have contributed to noncompliance and to reach agreement on program participation.

.441 The CWD shall issue a written notice in accordance with Section 42-781.44 to those individuals who do not have a telephone or who cannot be reached by phone.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4 and 11327.10(c), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-781.5 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 THE CWD SHALL MAKE ALL REASONABLE EFFORTS TO CONDUCT INFORMAL CONCILIATION WITHIN FIVE WORKING DAYS OF THE INITIAL CAUSE DETERMINATION. THE INFORMAL CONCILIATION PERIOD SHALL NOT EXCEED 10 WORKING DAYS FROM THE INITIAL CAUSE DETERMINATION.

Any issue that directly affects the individual's failure or refusal to comply with the program requirements under consideration may be discussed during conciliation. This includes providing further information demonstrating good cause for the failure or refusal to comply with program requirements.

.51 Those who attend the conciliation appointment or are otherwise contacted by the CWD during conciliation shall be informed of the right to request that a supervisor review the determination of no good cause.

.52 If, as a result of a supervisor's review and/or the individual's provision of additional information, the determination of no good cause is reversed, the CWD shall issue a written notice which sets forth the determination of good cause and informs the individual that conciliation has been terminated. The CWD shall take necessary steps to assist the individual to resume participation in accordance with Sections 42-781.31 through .36. The CWD shall also issue a written notice when a determination of no good cause is upheld by a supervisor.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4(e), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Relocate and renumber existing Section 42-781.7 to 42-781.6 then amend existing Section 42-781.6 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

16 If the informal conciliation process is unsuccessful in achieving compliance, the CWD shall begin formal conciliation.

.76 The formal conciliation period shall not exceed 30 calendar days.

.61 The formal conciliation process shall begin immediately following the unsuccessful informal conciliation process, if possible, but not later than 10 working days following the initial cause determination.

Either the individual or the CWD shall be permitted to terminate conciliation before the end of the 30 calendar day period if one of the following conditions is met:

.611 Both the individual and the CWD agree, in writing, to terminate conciliation.

.612 The determination of no good cause is reversed.

.613 The individual successfully fulfills the terms of the conciliation plan.

.62 The CWD shall use its proposed conciliation plan and or the individual's counter-proposal to encourage compliance with OAH requirements and resolve the problems which had resulted in noncompliance.

An extension of the conciliation period for 10 calendar days shall be available upon agreement in writing by the individual and the CWD only if both of the following conditions are met:

- .621 The individual has made a reasonable effort to conciliate during the initial 30 calendar day period and significant progress has been made toward a resolution of the dispute; and
- .622 The CWD believes that an additional 10 calendar days of conciliation is likely to lead to agreement between the individual and the CWD on a conciliation plan.
- .63 When the noncomplying individual is a parent in a family whose sole basis of deprivation is the unemployment of the principal earner and the spouse or second parent is not participating in GAIN, the spouse or second parent shall be notified in writing, at the beginning of ~~the formal~~ conciliation ~~period~~, of his/her opportunity to participate in GAIN. The notice shall explain the impact of his/her participation on any financial sanction.
- .631 If the spouse or second parent is under his/her own sanction at the time of the notice required in Section 42-781.63, the spouse or second parent shall be informed that he/she cannot participate until his/her sanction has been cured or completed.
- .64 (Continued)
- .65 (Continued)
- .66 Regardless of whether ~~the County is operating under an approved statutory reduction plan~~ a spouse or second parent would otherwise be excluded due to a County's priority for providing services (Section 42-720.6), a spouse or second parent who chooses to participate shall be allowed to do so.

Authority Cited: Sections 10553, and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4 and 11327.5(c)(1), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-781.7 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 (Continued)

.7 When, during the period of conciliation, the individual and the CWD reach agreement on program participation, a written conciliation plan which reflects this agreement shall be entered into and signed by the individual and the CWD. If the individual subsequently fulfills the terms of the conciliation plan, conciliation shall be considered successful.

.71 The individual shall be permitted, upon written request, to terminate the formal conciliation process sooner than 30 days when he/she believes that conciliation will not resolve the dispute. The conciliation plan shall specify that the individual must complete the agreed upon activity which may include:

.711 Attending orientation or appraisal activities.

.712 Signing the participant contract(s).

.713 Participating in a program component(s) as specified in Section 42-730.

(a) A conciliation plan may require participation in a program component until the component is completed or for a period of two consecutive calendar weeks, whichever is shorter.

.714 Accepting a job offer or job referral which is consistent with the employability plan.

.715 Participating as necessary to remedy termination of employment or reduction of earnings.

172 THE CWD SHALL BE PERMITTED TO TERMINATE THE FORMAL
CONCILIATION PLAN SOONER THAN 30 DAYS IF THE
INDIVIDUAL REFUSES TO MEET THE CONDITIONS OF THE
CONCILIATION PLAN.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Section 11327.4, Welfare and Institutions Code,
AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-781.8 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 (Continued)

.7 (Continued)

.8 THE CWD SHALL NOTIFY THE INDIVIDUAL IN WRITING OF HIS/HER SUCCESSFUL COMPLETION OF THE CONCILIATION PLAN. IF THE individual subsequently fails or refuses to fulfill the terms of an agreed-upon conciliation plan as specified in Section 42-781.7, the CWD shall give the individual an opportunity to demonstrate that he/she had good cause for failing or refusing to fulfill the terms of the conciliation plan.

.81 The CWD shall issue the individual a written appointment notice to meet and discuss the problem. The appointment shall be held within 10 working days of the discovery of the failure or refusal to meet the terms of the agreed-upon conciliation plan, unless the CWD is delayed by extenuating circumstances, which shall include insufficient time to issue the notice required in Section 42-781.81 at least six working days prior to the scheduled appointment.

.811 The notice shall contain the following information:

(a) A statement that the appointment is to determine if the individual had good cause for not complying with the terms of the conciliation plan.

(b) A description of the conciliation plan requirement(s) with which the individual failed or refused to comply.

- (c) A statement that the individual has the right to demonstrate why he/she failed or refused to comply with the terms of the conciliation plan.
- (d) The date, time and location of the scheduled appointment.
- (e) A statement that transportation and child care services are available if needed in order to attend the appointment.
- (f) A listing of what may constitute good cause for failing or refusing to comply with the terms of the conciliation plan.
- (g) A statement that the individual's failure to attend this appointment shall result in a cause determination in his/her absence, based on available information.
- (h) The names, telephone numbers, and addresses of the local legal services office and welfare rights office, or the Coalition of California Welfare Rights Organizations, if there are no welfare rights or legal aid offices in the county, which could assist the individual with this cause determination.
- (i) A statement that the individual shall be subject to sanctions if he/she is found to be without good cause for not complying with the terms of the conciliation plan.

.812 If the individual who fails or refuses to comply with program requirements is an unemancipated 16 or 17 years old custodial parent as described in Section 42-772.73 who lives with his or her parent(s) or legal guardian, the CWD shall also send a notice to the individual's parent(s) or legal guardian.

The parent(s) or legal guardian shall be allowed to attend any meetings between the CWD and the teenage parent that are designed to encourage the noncooperating teenage parent to participate.

.82 If the individual fails to attend the appointment, the CWD shall make a cause determination in his/her absence, based on available information.

.83 If the CWD determines that good cause existed for the failure or refusal to fulfill the terms of the agreed-upon conciliation plan, the CWD shall take necessary steps to assist the individual to begin or resume participation in accordance with the conciliation plan.

.831 Nothing in Section 42-781.83 shall preclude deferral or exemption as appropriate (See Sections 42-761.4 and 42-789 through 42-799).

.84 If the CWD determines that no good cause existed for the failure or refusal to fulfill the terms of the agreed-upon conciliation plan, the individual shall be subject to sanctions specified in Section 42-786.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4 and 11330.10(c), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 42-781.9 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 (Continued)

.7 (Continued)

.8 (Continued)

.9 If, the formal conciliation process is unsuccessful in resolving the conflict at the end of the 30 calendar day conciliation period, the individual continues to fail or refuse to comply with program requirements, the CWD shall follow the procedures in Section 42-786 for ~~financial~~ sanctions.

The procedures described above for the cause determination and formal conciliation are the same procedures used when a participant files a formal grievance based on Section 5302 of the Unemployment Insurance Code. See Section 42-787.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4(i), Welfare and Institutions Code; AB 312, Chapter _____, Statutes of 1990.

Amend Sections 42-782.1, .2 and .3 to read:

42-782 GAIN GOOD CAUSE CRITERIA

42-782

- .1 Good cause for ~~a refusal~~ failing or failure refusing to enter into a participant contract comply with program requirements as required, to participate in a program component agreed to in the participant contract, or to accept a job offer or referral specified in Section 42-781.1 shall include any of the following: (Continued)

(a) through (h) (Continued)

- (i) Licensed or exempt child care is not reasonably available during the individual's hours of training or employment, including commuting time/; or child care is needed for a child who meets the criteria of Section 42-750.22, but who does not meet the criteria of Section 42-750.21, and therefore is not eligible for GAIN paid child care.

(1) (Continued)

(A) (Continued)

(B) (Continued)

- (2) The choices of day care shall meet the requirements specified in Section 42-750.231.

(j) through (m) (Continued)

- (n) At the discretion of the CWD, any substantial and compelling reason other than those specified in this section Any of the deferral criteria specified in Section 42-761.4(a) through (p), or the exemption criteria specified in Sections 42-789 through 42-799.

- (o) At the discretion of the CWD, any substantial and compelling reasons other than those specified in this section.

- .2 No sanction shall be applied, and no cause determination is required, for any participant who, during a ~~week~~ month, is absent or tardy ~~less than~~ up to ten percent of the ~~weekly~~ monthly hours required for any component/, or the provider's standard.

.21 Participants shall not be permitted to accumulate unused hours past the end of each ~~week~~ month.

.3 For purposes of "terminating employment or reducing earnings", good cause shall include any of the following:

- (a) Any of the criteria specified in Sections 42-782.1 and 42-783.1.
- (b) The individual was forced to retire.
- (c) The individual was laid off or the company cut back staff.
- (d) Relocation of the family which results in a commute time which exceeds that specified in Section 42-783.1(b).
- (e) The individual was denied equal employment opportunities.
- (f) The individual was sexually harassed on the job.
- (g) The employer did not:
 - (1) Have the appropriate operating licenses as required by federal, state or local ordinances; or,
 - (2) Withhold the unemployment insurance or disability insurance required by law.
- (h) The employment presents a danger of substantial injury or death.
- (i) The individual accepted a job offer even if he/she was not hired by the employer who offered the job.
- (j) At the discretion of the CWD, any substantial and compelling reason other than those specified in this section.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.2(a), 11325, 11328(a)(12) and (14) and (i) and 11328.1, Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.35(d) and 255.2(a).

Amend Section 42-783.1 to read:

42-783 CRITERIA FOR DETERMINING APPROPRIATENESS
OF GAIN WORK AND TRAINING

42-783

.1 (Continued)

(a) (Continued)

(b) Requires travel between the place of employment or training and one's home that exceeds a total of two hours round trip, or two miles round trip when walking is the only available means of transportation/, or requires the individual to remain away from home overnight without his/her consent. (Continued)

(c) through (m) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11328(a)(14), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Sections 42-784.4 and .5 to read:

42-784 METHOD OF DETERMINING NET LOSS OF INCOME FOR
GAIN GOOD CAUSE CRITERIA (Continued)

42-784

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.42 (Continued)

.422 Child care expenses, of participants who would go off aid if the job were accepted and who would not be including any share of cost for individuals who are eligible for transitional child care (TCC).

(a) (Continued)

(b) To determine the amount of a TCC share of cost, see Section 47-130. (Continued)

.43 To the amount determined in Section 42-784.42 above, add any unearned income that is not exempt under Section 44-111.

.431 (Continued)

.44 If the family would remain eligible for aid, add the amount of cash assistance that would be received if the job were accepted to the amount determined in Sections 42-784.42 and 42-784.43.

.441 For purposes of this section, the AFDC one third disregard shall be excluded when determining the amount of cash assistance.

HANDBOOK BEGINS HERE

.5 Examples

.51 The participant's assistance unit consists of a single mother and two children, one of whom needs child care. The assistance unit is receiving a maximum aid payment (MAP) of \$694* per month and has no net nonexempt income.

* All amounts are for illustration purposes only.

The participant is offered a job that pays \$750 per month, which is insufficient to immediately make the family ineligible for aid, as it does not exceed 185% of the minimum basic standard of adequate care (MBSAC). Mandatory deductions are estimated to be \$150 per month; child care is estimated to be \$250 per month; and transportation is estimated to be \$100 per month. The participant is not eligible for TCC because the grant calculation, excluding the one third disregard, does not make the family ineligible for aid. Because the family remains eligible for aid, the estimated child care cost will be used in the NLI computation as the participant is not eligible for TCC.

The AFDC grant, excluding the one-third disregard, is calculated as follows:

<u>Gross earnings from job offered</u>	\$ 750
<u>- Standard work expense disregard</u>	- 90
<u>- \$30 disregard</u>	- 30
<u>- Child care disregard for one child</u>	-175
<u>+ Net income</u>	+ 0
<u>TOTAL NET INCOME</u>	\$ 455
<u>MAP for a family of three</u>	\$ 694
<u>- Net income</u>	-455
<u>TOTAL NEW GRANT</u>	\$ 239

The calculation for post-employment income, to determine if a net loss of income exists, is:

<u>Current Income</u>	\$ 694
<u>Gross earnings from job offered</u>	\$ 750
<u>- Mandatory deductions</u>	-150
<u>- Actual child care</u>	-250
<u>- Transportation</u>	-100
<u>+ Net nonexempt income</u>	+ 0
<u>+ Cash grant</u>	+239
<u>TOTAL</u>	\$ 489

HANDBOOKS CONTINUES

Because the post-employment income of \$489 per month is less than the current income of \$694 per month, the participant is not required to accept the job as it result in a net loss of income.

- .52 The participant's assistance unit consists of a single mother and two children, one of whom needs child care. The assistance unit has unearned income of \$50 per month and receives an aid payment of \$644.

The participant is offered a job that pays \$1100 per month, which is insufficient to immediately make the family ineligible for aid, as it does not exceed 185% of MBSAC. Mandatory deductions are estimated to be \$220 per month; child care is estimated to be \$250 per month; transportation is estimated to be \$100 per month. The participant is eligible for TCC because the grant calculation, excluding the one-third disregard, makes the family ineligible for aid. Because the family does not remain eligible for aid, the TCC share of cost will be used in the NLI calculation.

The AFDC grant, excluding the one-third disregard, is computed as follows:

<u>Gross earnings from job offered</u>	<u>\$1100</u>
<u>- Standard work expense disregard</u>	<u>- 90</u>
<u>- \$30 disregard</u>	<u>- 30</u>
<u>- Child care disregard for one child</u>	<u>-175</u>
<u>+ Unearned income</u>	<u>+ 50</u>

<u>TOTAL NET INCOME</u>	<u>\$ 855</u>
-------------------------	---------------

<u>MAP for a family of three</u>	<u>\$ 694</u>
<u>- Net income</u>	<u>-855</u>

<u>TOTAL NEW GRANT</u>	<u>\$ 0</u>
------------------------	-------------

The calculation for post-employment income, to determine if a net loss of income exists, is:

<u>Current Income</u>	<u>\$ 694</u>
-----------------------	---------------

HANDBOOK CONTINUES

<u>Gross earnings from job offered</u>	\$1100
- <u>Mandatory deductions</u>	-220
- <u>TCC share of cost</u>	- 21
- <u>Transportation</u>	-100
+ <u>Net nonexempt income</u>	+ 50
+ <u>Cash grant</u>	+ 0
 <u>TOTAL</u>	 \$ 809

Because the post-employment income of \$809 per month exceeds the current income of \$694 per month, the participant is required to accept the job, as there is no net loss of income.

- .53 The participant's assistance unit consists of a single mother and two children, one of whom needs child care. The assistance unit is receiving a MAP of \$694 per month and has no net nonexempt income.

The participant is offered a job that pays \$1300 per month, which immediately makes the family ineligible for aid, as it does exceed 185% of the MBSAC. The participant is not eligible for TCC because she has not received aid for three of the past six months; therefore, estimated child care costs will be used in the NLI calculation. Mandatory deductions are estimated to be \$260 per month; child care is estimated to be \$250 per month; and transportation is estimated to be \$100 per month.

A grant calculation is not required because the family is immediately ineligible for aid.

The calculation for post-employment income, to determine if a net loss of income exists, is:

<u>Current Income</u>	\$ 694
 <u>Gross earnings from job offered</u>	 \$1300
- <u>Mandatory deductions</u>	-260
- <u>Actual child care</u>	-250
- <u>Transportation</u>	-100
+ <u>Net nonexempt income</u>	+ 0
+ <u>Cash grant</u>	+ 0
 <u>TOTAL</u>	 \$ 690

HANDBOOK CONTINUES

Because the post-employment income of \$690 per month is less than the current income of \$694 per month, the participant is not required to accept the job as there is a net loss of income.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11328(k), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.35(c).

Amend Sections 42-786.1 and .2 to read:

42-786 GAIN FINANCIAL SANCTIONS

42-786

.1 Financial sanctions shall be applied when a mandatory participant fails or refuses to ~~meet~~ comply with program requirements without good cause and ~~informal and formal~~ conciliation efforts have failed. (See Section 42-781.1)

.2 (Continued)

.21 For purposes of determining the appropriate sanction to apply, an instance of non-compliance without good cause is considered to have occurred when a sanction notice of action has been sent.

.212 The first instance of noncompliance without good cause shall result in a financial sanction which shall continue until the individual and the County Welfare Department reach an agreement in an amended agreement to participate by signing a participant contract, or by agrees to participate in the required activity in which he/she previously refused to participate.

.213 The second instance of noncompliance without good cause shall result in a financial sanction which shall continue for three (3) months, or until the individual and the County Welfare Department reach an agreement agrees to participate by signing a participant contract or by agrees to participate in the required activity in which he/she previously refused to participate, whichever is longer.

.214 The third or subsequent instance of noncompliance without good cause shall result in a financial sanction which shall continue for six (6) months, or until the individual and the County Welfare Department reach an agreement agrees to participate by signing a participant contract or by agrees to participate in the required activity in which he/she previously refused to participate, whichever is longer.

.245 (Continued)

.2451 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4(j) and 11327.5(d), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Sections 42-786.3, .4, and .7 to read:

42-786 GAIN FINANCIAL SANCTIONS

42-786

.1 (Continued)

.2 (Continued)

.3 (Continued)

.311 A parent or caretaker relative/ other than the principal earner/ in a family whose basis of deprivation is the absence or incapacity of a parent, his/her aid shall be discontinued, and aid shall be continued to the remainder of the family (refer to Section 42-786.5 and Section 44-309 for protective payments); or

.312 (Continued)

.313 The only eligible child in the assistance unit, aid shall be discontinued ~~to the entire family~~ for only that child and aid shall be continued to the remainder of the family; or

.314 (Continued)

(a) For purposes of this section, full-time employment of at least 40 hours per week at minimum wage or above shall satisfy the participation requirement for the spouse or second parent as specified in Section 42-786.314.

(b) For purposes of this section, neither the exemption criteria specified in Sections 42-789 through 42-799 nor the deferral criteria specified in Section 42-761.4 apply to the spouse or second parent.

~~(c)~~ (Continued)

~~(d)~~ (Continued)

~~(e)~~ (Continued)

~~(f)~~ (Continued)

(g) If the spouse or second parent chooses to participate and subsequently fails or refuses to comply with program requirements, prior to the reinstatement of the sanctioned first parent, aid for the spouse or second parent shall be discontinued. This discontinuance shall be effective the first day of the first payment-month, following the date of the noncooperation and the County's timely notice and shall continue until the first parent has cured his/her sanction.

(1) The following provisions do not apply to a spouse or second parent who chooses to participate to avoid the first parent's sanction and subsequently fails or refuses to comply with program requirements:

(A) exemptions as specified in Sections 42-789 through 42-799;

(B) deferrals as specified in Section 42-761.4;

(C) conciliation as specified in 42-781; and

(D) good cause as specified in Sections 42-782 through 42-784.

.4 (Continued)

.41 (Continued)

.42 If an individual sanctioned under Section 42-786.22 agrees to participate by signing a participant contract, or by participating in the required activity in which he/she previously refused to participate during the period of timely notification, no sanction shall be imposed.

.5 (Continued)

.6 (Continued)

.7 (Continued)

- .71 If a volunteer participant who is a member of a group listed under Section 42-720.671635 engages in conduct which would result in sanctions for a mandatory participant, the individual shall not be given priority so long as other individuals are actively seeking to participate.
- .72 If any other volunteer participant engages in conduct which would result in sanctions for a mandatory participant, the individual shall be precluded from participating in the program for a six-month period.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.5(b), (c)(1)(A) and (B), (2) and (3) and (d), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; 45 CFR 250.34(c)(2) and (3) and 54 FR 42173, October 13, 1989.

Repeal Section 42-788 as follows:

42+788 EXEMPTIONS SUMMARIZED

42+788

An individual is exempt from registration when he/she is:

- 11 A child under age 16 (code 01Y)
- 12 A child 16/ 17/ or 18 years of age who is a full-time student in an elementary school/ high school/ vocational/ or technical school (code 02Y)
- 13 Ill or injured/ when determined that the illness or injury is serious enough to temporarily prevent entry into employment or training (code 03Y)
- 14 Age 65 or older (code 04Y)
- 15 Incapacitated/ when determined that/ the individual has a physical or mental impairment/ by itself or in conjunction with age/ prevents the individual from engaging in employment or training (code 05Y)
- 16 Residing in a location which is so remote from a CAIN program component that effective participation in the program is precluded (code 06Y)
- 17 A caretaker whose presence in the home is required on a substantially continuous basis because of the physical or mental impairment of another member of the household (code 07Y)
- 18 The parent or other relative of a child under three years who is personally providing care for the child (code 08Y)
- 19 In at least the fourth month of pregnancy/ (code 09Y)
- 110 Working/ or is expected to be working 30 hours or more per week in unsubsidized employment which is expected to last at least 30 days (code 10Y)
- 111 Repealed by SPS Manual Letter NO/ PAS+89+03/ effective 7/1/89/

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt new Sections 42-788.1 and .2 to read:

42-788 EXEMPTIONS

42-788

- .1 Applicants for and recipients of Aid to Families with Dependent Children (AFDC) who meet any of the criteria specified in Sections 42-789 through 42-799 are exempt from registration for and participation in the Greater Avenues for Independence (GAIN) program.
- .11 Such individuals may volunteer to participate in GAIN.
- .2 Counties shall promptly notify such individuals when:
 - .21 Their status changes from exempt to mandatory (see Section 42-760.4); or,
 - .22 Their status changes from mandatory to exempt.
 - .221 In the case of an individual whose status changes from mandatory to exempt, the individual's case manager shall also be notified.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11310(b) and (c) and 11320.4(a), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; 45 CFR 250.30(a) and (c)(2) and 45 CFR 250.31.

Amend Section 42-790.1 to read:

42-790 EXEMPTION BASED ON SCHOOL ATTENDANCE (CODE 02) 42-790

.1 The Exemption

An individual ~~child~~ 16, 17, or 18 years of age is exempt when he/ ~~or~~ she is attending full-time, a school in grade twelve or below, or vocational or technical school. An individual who is 16 or 17 years old or a custodial parent under 20 years old described in Section 42-772.7 who loses this exemption shall not regualify for the exemption by attending school as a required activity in GAIN.

.11 (Continued)

.12 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(b)(2), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.30(b)(1)(ii).

Amend Section 42-792.1 to read:

42-792 EXEMPTION BASED ON AGE §§ 60 OR OLDER
(CODE 04)

42-792

.1 The Exemption

All individuals age §§ 60 or older are exempt from GAIN
registration. (Continued)

.2 (Continued)

.3 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: 45 CFR 250.30(b)(4).

Amend Section 42-793.1 to read:

42-793 EXEMPTION BASED ON INCAPACITY (CODE 05)

42-793

.1 The Exemption

An individual is exempt from GAIN registration based on incapacity when it is verified that: (a) the individual has a physical or mental impairment which ~~by itself or in conjunction with age~~ prevents the individual from engaging in employment or training; or (b) the individual is under age 20, does not possess a high school diploma or equivalent, and is in her physician prescribes a specified period of postpartum recovery.

/// The time limit for incapacity due to postpartum recovery shall be consistent with the current practices under Division 1 of Part 2 of the Unemployment Insurance Code, unless the individual has medically verified postpartum complications.

/// The current time frame for postpartum recovery is six weeks.

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(d)(3), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.30(b)(3).

Amend Section 42-794.1 to read:

42-794 EXEMPTION BASED ON REMOTENESS (CODE 06)

42-794

.1 The Exemption

An individual is exempt when he/she is residing in a location which is so remote from a GAIN program ~~component~~ activity that his/her effective participation in GAIN is precluded. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(b)(4), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Adopt new Sections 42-799.1, .2 and .3 to read:

42-799 EXEMPTION BASED ON VISTA PROGRAM PARTICIPATION
(CODE 11)

42-799

.1 The Exemption

An individual is exempt if he/she is a full-time volunteer in the Volunteers in Service To America (VISTA) Program, as provided by Title I of the Federal Domestic Volunteer Act of 1973.

.2 Documentation

This exemption is supported by either of the following:

.21 A copy of a Domestic Volunteer Earnings Statement.

.22 A written verification from the VISTA sponsor or the Federal Region IX ACTION/VISTA Office.

.3 Review

Review this exemption:

.31 At the annual reinvestigation; and

.32 Whenever the individual ceases participation in the VISTA Program.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(b)(9), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990; and 45 CFR 250.30(b)(10), (c)(1)

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

OCT 01 1990

At 4:16 P.M.
MARCH 1991
By Michael J. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0920-02



JOHN SMITH
CHIEF COUNSEL

10/01/90

EMERGENCY

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW
NOTICE/PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 100920-03E	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
1990 SEP 20 PM 3 08 OFFICE OF ADMINISTRATIVE LAW ENDORSED APPROVED FOR FILING OCT - 1 1990 Office of Administrative Law				
AGENCY State Department of Social Services			AGENCY FILE NUMBER (if any) RDB #0790-32	

FILED
In the office of the Secretary of State
of the State of California

OCT 01 1990
At 4:16 P.M.
MARCH 1990
By Michele Williams
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT Section 40-006 AMEND Section 40-107.1, 131.3, and 169; 44-111.3, 205.4, 206.1 and 206.2 REPEAL
TITLE(S) MPP	

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 4 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> Effective other (Specify) 10/01/90	for operative date see AB 312, Section 15, Statutes of 1990

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

6. CONTACT PERSON Rosalie Clark, Chief, Regulations Development Bureau	TELEPHONE NUMBER (916) 445-0313
---	------------------------------------

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Linda S. McMahon	DATE 9-18-90
TYPED NAME AND TITLE OF SIGNATORY Linda S. McMahon, Director, State Department of Social Services	

* addition to
34 per agency
Request 10/01/90
RD

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt New Section 40-006 to read:

40-006 IMPLEMENTATION OF THE AFDC/GAIN (JOBS)
CONFORMING REGULATIONS

40-006

- .1 This regulatory action consists of adopting, amending or repealing language in the following sections in order to bring Aid to Families with Dependent Children (AFDC) regulations into conformity with the Job Opportunities and Basic Skills Training (JOBS) provisions of the Family Support Act of 1988 (Public Law 100-485) and to implement federal regulation [45 CFR 250.40] which requires that AFDC applicants and recipients are informed about the Greater Avenues for Independence (GAIN) Program. Amend Sections: 40-107.1, 40-131.3, 40-169, 44-111.3(f), 44-205.4; and renumber and amend Section 44-206.22 to 44-206.1(d)(5).
- .2 The effective date of these regulations shall be October 1, 1990.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 204(a), Public Law 100-485; 45 CFR 250.20(a)(1); and Section 15, AB 312, Chapter _____, Statutes of 1990.

Amend Section 40-107.1 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant (Continued).

- .16 Applicants/recipients shall receive written information at the time of application or at their first redetermination after implementation of GAIN regarding the GAIN Program as to the following:

 - .161 A description of the program;
 - .162 The availability of job training, employment, education and supportive services, including the types and locations of child care services and the assistance available to select and obtain such services, and Transitional Child Care (TCC) Program benefits;
 - .163 The individual's rights and responsibilities;
 - .164 The consequences of failure or refusal to participate in the GAIN Program;
 - .165 The grounds for exemption from participation in the GAIN Program; and
 - .166 The obligations of the county welfare department (CWD) in providing GAIN services.
- .17 Applicants/recipients shall be informed by the CWD regarding the GAIN Program orally, as needed, to clarify written information.
- .18 The CWD shall provide written notification of the opportunity to express a desire to participate in the GAIN Program and provide a clear description of how to enter the GAIN Program to:

 - .181 Applicants, upon application, but not later than 30 days from the determination of eligibility for aid; and
 - .182 Recipients, at redetermination, but not later than 30 days after being informed in accordance with Section 40-107.16.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Sections 682(c)(2), (3), (4) and (5);
45 CFR Sections 250.40(a), (c)(1) and (2); and
Sections 11324.8(a) and (f)(1), Welfare and
Institutions Code, AB 312, Chapter_____,
Statutes of 1990.

Amend Section 40-131.3 to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Interview

The application interview shall include discussion of the following as pertinent: (Continued)

s. The availability of program activities and supportive services of the GAIN Program for which applicants and recipients may be eligible. (See Sections 40-107.16 and .17.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Sections 682(c)(2), (3) and (4); 45 CFR 250.40(a); and Section 11324.8(a), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Sections 40-169 (Title) and .1 to read:

40-169 GAIN PARTICIPATION OR EMPLOYMENT REGISTRATION 40-169
REQUIREMENTS FOR PERSONS APPLYING FOR AFDC OR
INCLUDED IN THE ASSISTANCE UNIT

.1 Federally eligible persons, including essential persons,
persons who are federally eligible under section 44-209/2
and 44-209/33 and who are not exempt under Sections 42-788
through 42-799 42-830 are automatically registered with WIN
Plan of GAIN.

.11 Included are principal earners who establish federal AFDC-U eligibility for the family under Section 42-625.1.

.12 For purposes of this section, persons
automatically registered with GAIN shall be
considered available for participation in the
GAIN Program and shall participate in GAIN
Program activities when directed to do so by the
CWD.

.2 (Continued)

.3 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 202(a), Public Law 100-485; 45 CFR 224.0(c) and 233.100(a)(5)(i); and Sections 11310(a), 11320.4(a) and 11324.8(a)(2), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend Section 44-111.3(f) to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

.3 (Continued)

- (f) ~~The incentive payments under WIN Demo and the reimbursement for training related expenses~~ Advance payments or reimbursements made by WIN Demo or GAIN for supportive services are exempt from consideration as income.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; and 45 CFR 224.0(c) and 233.20(a)(11)(v)(C).

Amend Section 44-205.4 to read:

44-205 ESTABLISHING THE FBU (Continued)

44-205

.4 Persons Who are Required to be Included in the ~~FBU~~
Assistance Unit (AU)

- .41 Every ~~FBU~~ AU shall include at least one eligible child or pregnant woman with the following exceptions: when the only otherwise eligible child in the home must be excluded due to receipt of SSI/SSP (see Section 44-206.1(a)), or is being sanctioned under Section 42-786, that child shall be considered the basis for establishing an ~~FBU~~ AU for the needy relative(s) when the child meets the criteria specified in Section 44-203.1. The ~~FBU~~ AU shall also include the following persons living in the home, except as specified under Section 44-205.42: (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 602(a)(19)(G)(i)(I); 54 FR 42172 (October 13, 1989); 45 CFR 250.34(c)(3); and Section 11327.5(c)(3), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Renumber Section 44-206.22 to Section 44-206.1(d)(5) and amend to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE ASSISTANCE 44-206
UNIT (AU) (Continued)

.1 (Continued)

(d) (Continued)

(5) An AFDC principal earner has been sanctioned ~~by WIN~~ ~~per~~ ~~of~~ under GAIN/ requirements in ~~(see~~ Section ~~427891~~ ~~of~~ 42-786. ~~as appropriate)~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 602(a)(19)(G)(i)(I) and (II); Section 202(a), Public Law 100-485; 45 CFR 224.0(c) and 250.34(c)(1) and (2); and Section 11327.5(c)(1), Welfare and Institutions Code, AB 312, Chapter _____, Statutes of 1990.

Amend and Renumber Section 44-206.2 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE ASSISTANCE 44-206
UNIT (AU) (Continued)

.2 (Continued)

.21 (Continued)

HANDBOOK BEGINS HERE

.214 The entire family that is ineligible for aid
under Section 44-206.2~~2~~1, may be eligible for
benefits under the State-only AFDC-U Programs
(see Section 41-703).

HANDBOOK ENDS HERE

~~122~~

.2~~3~~2 (Continued)

.2~~4~~3 (Continued)

.2~~5~~4 (Continued)

.2~~6~~5 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

OCT 01 1990

At 4:16 P.M.
MARCH 1990
By Michael L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0920-03



JOHN SMITH
CHIEF COUNSEL

10/01/90
